By Mr. WALDIE (for himself, Mr. DULSKI, Mr. DANIELS of New Jersey, Mr. BRASCO, Mr. SCOTT, Mr. HOGAN, and Mr. HILLIS):

H.R. 12202. A bill to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself and Mr. PEYSER):

H.R. 12203. A bill to authorize an investigation and study of coastal hazards from offshore drilling on the Outer Continental Shelf in the Atlantic Ocean; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR (for himself and Mr. DENT):

H.J. Res. 1004. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds deficits; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. ANDERSON of Tennessee, Mr. ASPIN, Mr. BADILLO, Mr. BELL, Mr. BEGICH, Mr. BIESTER, Mr. BRADEMAS, Mr. BURKE of Massachusetts, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. CLAY, Mr. COLLINS of Illinois, Mr. CONTE, Mr. CORMAN, Mr. COUGHLIN, Mr. DELLENBACK, Mr. DENHOLM, and Mr. DIGGS):

H. Res. 736. 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. DOW, Mr. DRINAN, Mr. DU PONT, Mr. ECKHARDT, Mr. EDWARDS of California, Mr. EDWARDS of Louisiana, Mr. EILBERG, Mr. ESCH, Mr. FORSYTHE, Mr. FRENZEL, Mrs. GRASSO, Mr. GRAY, Mr. HALPERN, Mr. HAMILTON, Mr. HATHAWAY, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, and Mrs. HICKS of Massachusetts):

H. Res. 737. 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. HORTON, Mr. HUNGATE, Mr. KEATING, Mr. KEMP, Mr. LEGGETT, Mr. MCCLOSKEY, Mr. MCCOLLISTER, Mr. MCCORMACK, Mr. MCCULLOCH, Mr. MCKINNEY, Mr. MACDONALD of Massachusetts, Mr. MATSUNAGA, Mr. MAZZOLI, Mr. METCALFE, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. MOSHER, and Mr. MOSS):

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. PEYSER, Mr. PODELL, Mr. POWELL, Mr. RANGEL, Mr. REES, Mr. REID of New York, Mr. RIEGLE, Mr. RODINO, Mr. ROE, Mr. RONCALIO, Mr. ROSENTHAL, Mr. ROY, Mr. RUNNELS, Mr. RYAN, Mr. ST GERMAIN, Mr. SANDMAN, Mr. SCHEUER, Mr. SCHWENGEL, and Mr. SHOUP):

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, Mr. THONE, Mr. TIERNAN, Mr. UDALL, 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 Siaotong; 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.

SENATE—*Friday, December 10, 1971*

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 call of the herald:

Repent . . . for the kingdom of heaven is at hand . . . Prepare ye the way of the Lord, make his paths straight . . . (Matthew 3: 2, 3)

Give us the wisdom and the will to respond by emptying our hearts of all that corrupts or mars the divine image, and all that separates us from Thee or from our fellow man. May the truth of these advent days penetrate our soils and saturate our society so that love replaces hate, generosity replaces selfishness, truth replaces falsehood, and peace replaces war. Come to us in all Thy renewing power that we may be born again to that higher life to which we have aspired but never yet 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.

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—VETO 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:

I return herewith without my approval S. 2007, the Economic Opportunity Amendments of 1971.

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 ill serve the stated objectives of this legislation, provisions altogether unacceptable to this administration.

Upon taking office, this administration sought to redesign, to redirect—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 this agency with a new purpose 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 vitiate 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 its resources and talents 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 taken away under amendments added by the Congress—and the President 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 pioneer for social programs.

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

porting and continuing programs that may prove less productive; it inhibits the very experimentation and innovation which I believe should be the primary mission of OEO; it denies administrative discretion to the executives of OEO and, most important, it restricts and limits the amount of funds available for hopeful new initiatives.

Should these amendments become law, OEO's days as the principal pioneer of the Nation's effort to combat poverty 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 operation in a responsible manner. In 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 door has been left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support.

The restrictions which the Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. Under congressional revisions, the President has full discretion to appoint only six of the seventeen directors; the balance must be chosen from lists provided by various professional, client and special interest groups, some of which are actual or potential grantees of the Corporation.

The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.

To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.

It would be better to have no legal services corporation than one so irresponsibly structured. I urge the Congress to rewrite this bill, to create a new National Legal Services Corporation, truly independent of political influences, containing strict safeguards against the kind of abuses certain to erode 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 what this administration envisioned when it 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 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 needs is for 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 totals 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 been before the Congress for the past 26 months, include a request for $750 million annually in day care funds for welfare recipients and the working poor, including $50 million for construction of facilities. And that is why we 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, open 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 will help the most—a policy certain to suffer 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 3.6 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) since 1969.

—Improvement of medical care for poor children through the introduction of more vigorous screening and treatment procedures under Medicaid.

—More effective targeting of maternal and child health services on low income mothers who need them most.

Furthermore, Headstart continues to perform both 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 in 1969 provides overall leadership for these and many other activities focused on the first five years of life.

But, unlike these tried and tested programs for our children, the child development envisioned in this legislation would be truly a 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 far-reaching 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 direction in which they desire their government and nation to go.

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

First, neither 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 some degree, 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 demands upon the Federal taxpayer, the expenditure of two billions of dollars in a program whose effectiveness has yet to be demonstrated cannot be justified. And the prospect of costs which could eventually reach $20 billion annually is even more unreasonable.

Fourth, for more than two years this administration has been working for the

enactment of welfare reform, one of the objectives of which is to bring the family together. This child development program appears to move in precisely the opposite direction. There is a respectable school of opinion that this legislation would lead toward altering the family relationship. Before even a tentative step is made in this direction by their government, the American people should be fully consulted.

Fifth, all other factors being equal, good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children—particularly in those decisive early years when social attitudes and a conscience are formed. and religious and moral principles are first inculcated.

Sixth, there has yet to be an adequate answer provided to the crucial question of who the qualified people are, and where they would come from, to staff the child development centers.

Seventh, as currently written, the legislation would create, ex nihilo, a new army of bureaucrats. By making any community over 5,000 population eligible as a direct grantee for HEW child development funds, the proposal actively invites the participation of as many as 7,000 prime sponsors—each with its own plan, its own council, its own version of all the other machinery that has made Headstart, with fewer than 1,200 grantees, so difficult a management problem.

Eighth, the States would be relegated to an insignificant role. This new program would not only arrogate the initiative for preschool education to the Federal Government from the States—only 8 of which even require kindergarten at present. It would also retain an excessive measure of operational control for such education at the Federal level, in the form of the standards and program guidelines to be set down by the Secretary of HEW.

Ninth, 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.

This President, this Government, is unwilling to take that step. With this message, I urge the Congress to act now to pass the OEO extension and to create the legal services corporation along the lines proposed in our original legislation.

RICHARD NIXON.

THE WHITE HOUSE, *December 9, 1971.*

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the veto message of the President of the United States be held at the desk until later today.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 6, 11, 12, 13, 15, 16, 24, 32, 33, 35 through 46, 48, 49, 51, 61, and 62 to the bill and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 20, 28, 29, 31, 34, 55, 57, 60, 68, and 75 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions:

S. Con. Res. 30. Concurrent resolution authorizing the printing of the study entitled "Soviet Space Programs, 1966–70" as a Senate document;

S. Con. Res. 34. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 91st Congress as a Senate document;

S. Con. Res. 44. Concurrent resolution authorizing the printing of the study entitled "International Cooperation in Outer Space: A Symposium" as a Senate document; and

S. Con. Res. 50. Concurrent resolution authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 439. Concurrent resolution to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money";

H. Con. Res. 441. Concurrent resolution authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes; and

H. Con. Res. 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 439. Concurrent resolution to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money";

H. Con. Res. 441. Concurrent resolution authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes; and

H. Con. Res. 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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 Lt. 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 Cushman.

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 was a civilian office boy for Colonel Snyder, then the commanding officer of the Officers' School 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 proceeded to read sundry 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.

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.

THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of the Calendar beginning with No. 545 and ending with No. 548.

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

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 by the President of certain 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 "65" 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."

(2) Section 6954(a)(1) is amended by striking out "40" and inserting in place thereof "65" 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."

(3) Section 9342(a)(1) is amended by striking out "40" and inserting in place thereof "65" 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 and the recoverable MIA's?

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 majority leader (Mr. MANSFIELD) for his generous remarks. I also want to thank him and the distinguished minority leader (Mr. SCOTT) for arranging for this legislation to come to the floor on such very short notice. In addition, 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 the Christmas holidays. 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 in action.

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 our service academies, we will be telling these brave men and their equally brave families that they are not forgotten, that they have the continuing gratitude and affection of this 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.

A. LEON HIGGENBOTHAM, JR., CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 173) to provide for the appointment of A. Leon Higginbotham, Jr., 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. 173

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That A. Leon Higginbotham, Junior, a resident of Philadelphia, Pennsylvania, 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.

Mr. SCOTT. Mr. President, I should 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 on the bench. As a regent 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 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.

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 Princeton, New Jersey, 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 printed 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.

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 25 years, and in all of that time I have never felt so humiliated by my Government as I do now. Today I stand in almost total 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. Government, in violation of the law, refuses to open its food warehouses to these starving women, children, and unemployed men.

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. Because the U.S. Department of Agriculture steadfastly and callously denies the use of federally owned surplus food commodities to feed 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 constituent's interest for hunger 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 unequaled compassion, from a nation who was a bitter adversary 30 years ago. Those who hold responsible positions of government in this country—with their oratorical proclamations of concern for the less fortunate—should be ashamed of themselves. The people of Japan, in a simple, honest gesture of humanitarianism, in sending rice and canned goods to hungry people in Seattle, have made the great institutions of the U.S. Government look callous and cruel. In one simple humanitarian gesture, Japan has made a mockery of our pious claims of being a nation dedicated to serving the cause of human dignity and concern for the well-being of our citizens.

Bureau of Customs officials in Seattle—after some uncomfortable analysis and uncertainty and an initial decision to confiscate the Japanese food shipments—allowed the food to be received so it could be distributed by Neighbors in Need, a church-sponsored organization; and other volunteer groups. The customs officials 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 and medical services program which we passed yesterday, allotting them sufficient money to do this job in the supplemental appropriation bill.

On top of that, Congress has appropriated the funds.

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 that food stamps will not handle. How, 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, thousands of miles away, can easily 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.

This administration can see great humanity in providing a $250 million loan for a hungry corporation, but cannot see spending another dime on hungry human beings.

I have 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 approved the apropriations for 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 for 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 administrative procedures—that is, unless it is for weapons of destruction or for providing economic improvements for big people.

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 withholding food commodities from the city.

I have appealed to the U.S. Attorney General to file no appeal on the matter, and to instruct the new Secretary of Agriculture to comply with the law.

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 U.S. District Court—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 situation, including an inspection trip, and is appropriately entitled "Seattle, the New Poor," and the opinion of District Court Judge Beeks' ruling against the Department of Agriculture.

I ask unanimous consent to have the excerpts from the report printed in the RECORD.

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

THE ECONOMIC SITUATION

The Pacific Northwest region today contains 6.25 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 40 miles of downtown Seattle. The four counties surrounding Seattle have a population of 1.9 million. The population of that area exploded during the last decade, increasing by 421,000 persons—or 27 percent of the current number. Nearly 60 percent of this increase, or 259,000, occurred from 1965 to 1970. Most of these people were attracted to the area by about 50,000 new jobs in the growing aerospace industry of 1966–68. Employment rose by 43 percent during the decade, from 527,000 to 752,000 jobs.

In mid-1968, the aerospace industry in the greater Seattle area employed a peak of 106,000 workers. In 1969, the aerospace payroll was cut by 17,000 workers. Total employment in the area only dropped by 14,000, however, which meant that jobs were still being created in other sectors of the economy. In 1970, aerospace employment dropped another 34,000, twice the amount of the previous year. This time—instead of being partially offset by other economic activity—it resulted in total employment plunging 60,000. Most of this secondary loss occurred in areas of trade, services, utilities and construction.

The plunge has continued 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 job losses for the entire year are around 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.

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 actual job losses. From 1966–68, the unemployment rate averaged 4.3 percent or less each year. In 1959, when 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 1970, unemployment was 10.1 percent. And, by the beginning of 1971, the rate was 11.8 percent and still climbing. During June—with the labor market swelled by summer job seekers—the unemployment rate stood at 12.4 percent, and the total number of unemployment was placed at 181,700 persons.

Sixty-eight percent of the June unemploy-

ment occurred in the State's three principal urban areas. The Seattle area was hardest hit—the rate reaching a high of 15.7 percent, a 156-percent increase from June 1970, and the most severe in the Nation for a metropolitan area.

The rate throughout the area this fall has hovered around 12.5 percent and is expected to rise to slightly over 12 percent by this winter. Slight improvement is expected during the remainder of next year—the rate is predicted to hover around 11 percent.

Despite this drain on the area's economy during the past 3 years, the area still has a net-job gain—96,000 at the end of last year—as compared to the pre-aerospace boom era. But most of this gain is in areas of secondary economic activity such as service stations, department stores, insurance companies, schools, hospitals, hotels, restaurants, and banks. One of the key questions facing the area now is: How long can these secondary jobs survive until the recession in primary jobs bottoms out and rights itself?

The stability of these secondary jobs is a tribute to the fundamental soundness of the economic base of Seattle and Washington State. This area is rich in natural resources, producing over $2 billion of forest products, and $800 million of farm products annually. Washington is one of the Nation's leading wheat producing and exporting States. The Washington Customs District is fast becoming a major trading center, doing $3 billion business last year, an increase of 21 percent, and 12 percent annually for the past decade. Tourism is a $400 million a year industry with a growth rate of 6 percent annually.

This fundamental soundness makes it difficult for the casual visitor to Seattle to see the depths of the area's economic decline. The freeways are still crowded with cars. The city's skyline is being enlarged by new high-rise office buildings and hotels. The view of Puget Sound and the Olympic Mountains from a room of a high-rise hotel, just completed, is still spectacular. Downtown stores seem busy and the figures indicate that, for the most part, retail sales are holding up. The best restaurants still do a respectable business at lunchtime.

The truth, of course, is that there are two Seattles. For the employed 85 percent of the work force and their families, life is still good and getting better. This is the Seattle that the casual visitor sees. For the 15-percent unemployed—the 100,000—life is hard and getting harder. This Seattle is hidden to the casual eye, but painfully visible beneath the city's surface. Or, as one of the city's surface. Or, as one of the city's leading business bulletins put it:

For the employed, Seattle still offers the good life; but, for a steadily increasing part of the community, the present situation is murky and the future looks dark.

RESPONSE TO THE ECONOMIC CRISIS

Unemployment Insurance, Public Assistance, Food Stamp, School Lunch, and Food Bank programs have all responded to Seattle's economic crisis. But, there is now widespread concern over the fact that these programs are no longer adequate to deal with the situation—without additional resources and other kinds of assistance.

Unemployment insurance

Unemployment Insurance has been the mainstay of the 100,000 men and women who have been laid off during the area's recession. In June of this year, a total of 103,354 persons were receiving benefits under Federal, State regular and extended programs. This figure represented an increase of 37 percent over the previous year. But the program is now beginning to be unequal to the burden placed upon it.

During the year prior to May 1971, almost 48,000 workers had periods of unemployment of sufficient length to exhaust regular unemployment compensation benefits. This represented about half of all new beneficiaries filing during the same period. In recent months, the number of workers exhausting extended benefits has been heavy. It is estimated that, in the year prior to last August, 11,000 workers in the Seattle area exhausted eligibility for extended benefits. The estimate for the State is nearly 93,000 workers losing their regular benefits, with 21,000 more terminating their extended benefits.

As of October 2, the situation took a decided turn for the worse, with another 10,000 workers exhausting their extended benefits. It is now estimated that the monthly rate of workers exhausting benefits has increased from 4,000 to 9,000 a month; and, that by next March, an additional 27,000 workers will lose their benefits.

A working paper drafted by the staff of the Health, Education and Welfare Policy Advisory Committee of the Puget Sound Governmental Conference described the Unemployment Insurance crisis this way:

. . . the gravity of the unemployment situation had been greatly ameliorated by unemployment compensation until recent months when the gap between total employment and benefit coverage began to widen dramatically. This trend will continue in the immediate future, as a consequence the number of unemployed not receiving benefits will exceed those covered. Thus even though the economic situation will in all likelihood improve and the number of unemployed decline steadily during the coming months, the problem as measured in human need will increase in gravity.

Saying it in somewhat simpler terms, the thread by which so many workers and their families have hung thus far is fast running out. And, as that thread breaks, the already heavy burden on the remaining support programs can only increase.

Public assistance

The growth of the Seattle and State welfare rolls is another indication of the area's economic need. By the end of last May, the number of persons receiving some form of assistance was 234,105—an increase of 45 percent from May of 1969. During the same period, the number of persons receiving Aid To Dependent Children benefits had risen from 77,959 to 145,051—a percentage increase of 86 percent. In Seattle and King County nearly 67,643 persons are receiving assistance. And, in Seattle's Model City Neighborhood, the number of welfare recipients had increased by about 250 percent in the past 2 years, to a point where nearly 20 percent of its residents are receiving some kind of assistance.

The State's total expenditure on public assistance will have increased from $123.3 million to $171.6 million during the period of Fiscal Year 1970–72. This increase and projected increases could not be borne by the State budget. This fact resulted in a 15 percent reduction in public assistance grants across the board last April. The effect of this cutback on recipients was immediate. Those who had been surviving suddenly found their income reduced while their basic costs of living remained the same or increased. The effect of the cutback was aggravated by the fact that the State's public assistance payments are pegged to the 1967 cost-of-living and, therefore, do not account for the inflation of the past 4 years.

While it is, as yet, difficult to estimate the increased burden facing the Public Assistance Program, because of the increasing loss of unemployment benefits to area workers, there is little doubt that the burden will grow.

The effect of the 15-percent cut on the ability of people to participate in the Food Stamp Program, however, is already clear and, unfortunately, quite adverse.

Food stamps

The Food Stamp Program in Seattle and Washington State is generally considered among the most efficiently operated in the country. There is no question that State and local officials have made significant efforts to put the program within reach of those who are potentially eligible. Those eligible were estimated to be nearly 164,000 households—or 442,000 individuals—in 1969, when the unemployment rate was about 5 percent, or less than half the current figure.

The Food Stamp Program has responded remarkably well to the crisis. In May 1969, 93,035 persons were utilizing the program. Two years later, the number was 263,259—an increase of 182 percent. In fact, the increase was so striking that Seattle began to be called the country's "food stamp capital."

The adverse effect of the public assistance cutback on food stamp participation, however, showed itself by July of this year. The official report of the State's Department of Social and Health Services says:

The first month of fiscal 1972 showed a decrease in the number of participating food stamp households of 4,638 or 5.1 percent from the 91,143 households in June to 86,505 households in July. The July figure represents the lowest number of participating households since October 1970. The greatest decrease was in assistance households which dropped from 51,604 households in June to 49,025 households in July—a decline of 2,579 or 5.0 percent; and nonassistance households decreased from 39,539 households in June to 37,480 households in July—a decline of 2,059 or 5.2 percent.

The latest estimate of participation in the Food Stamp Program stands at 255,388 persons—as few as 52 percent of the minimum number potentially eligible. The two key problems in qualifying for food stamps are delays in getting certified—a minimum of 8 days—and the requirement to get a particular office and present complete documentation of all income, assets, and expenses including rent and utilities. The primary problem is that people can't afford food stamps because it requires cash and they *won't* or *can't* sell their house or car or other vital family assets.

Food banks

Late in 1970, the Church Council of Greater Seattle, the Ecumenical Metropolitan Ministry, the Fellowship of Christian Urban Service, and the Churches of Greater Seattle joined in establishing an emergency food program called "Neighbors in Need." In the first 4 months of 1971, the 34 emergency Food Banks set up by Neighbors in Need distributed cartons of food to 75,000 persons. This demand prompted the following telegram to President Nixon from the Presbyterian United Synod of Washington-Alaska:

Dear Mr. President: Unemployment in Seattle now past 15 percent. In black Central District over 48 percent. State Welfare seriously reduced; church sponsored food banks serving emergency needs of 20,000 monthly. $750,000 in food has been given by churches. Religious community of Seattle unable to meet growing need unaided.

Since its inception, Neighbors in Need has filled 300,000 requests for food from its 34 Food Banks. As the year has gone by, the volume of requests has increased. During February and March of this year, requests went up 50 percent and, in April, an additional 33 percent. The increase in April coincided with the cut in public assistance payments. In March, 32.8 percent of those served by the Food Banks were receiving some form of public assistance. After the April cuts, that figure rose to 52 percent. It is currently estimated that the Food Banks are serving 12,000 persons a week, 48,000 monthly.

While there may be some nonindigent persons using the Food Banks, and while a significant number may be repeaters, this is still an important indicator of the nutritional needs of the Seattle area.

THE HUNGER GAP

The failure of 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:

The best way to fully appreciate the dramatic effects of the drop in real personal income . . . has on a family is to construct an average family budget. This process shows 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 monthly average costs in the Seattle metropolitan area. These costs are from the department's "lower budget" which utilizes minimum expenditures below which elements of a family's health, security, and nutrition would be jeopardized:

Transportation	$40.50
Personal care and clothing	69.70
Medical care	47.00
Other family consumption costs	27.00
Housing	137.50
Food	161.25
Taxes	56.90
Other	56.90
Total	599.35

To be eligible for food stamps the income of a family of four cannot exceed $355, which is only 60 percent of the above budget. In order to purchase food stamps the family must save $80 which leaves only $275 to pay for $438.10 of expenses (above total less food). As can be seen by the total below, even if the family paid no transportation costs, no "other family consumption costs," and no "other" expenses, the $275 would not cover housing, medical care, clothing, and taxes:

$137.50
69.70
47.00
56.90
311.10

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 obviously impairs many familys' (sic) ability to meet their budgets by paying their other bills, foregoing food stamps, and getting (additional income) from the food bank—or else they go hungry.

In a survey of people waiting in food lines, 38 percent said they couldn't afford food stamps and 50 percent said they had once 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 U.S. 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 purpose of the suit is to require the USDA to approve concurrent programs. The plaintiffs in the suit were described as having the following resources to draw upon for food stamps:

Plaintiff Florence Sloan, aged 66, has a total monthly income of $151.66. Her monthly expenses, for rent ($98), past debts ($22), utilities ($13), telephone ($8.33), and laundry ($5) total $146.33. These expenditures do not even include such necessities as clothing, food, medical costs, transportation, household supplies, and hygienic items. As a result, she is unable to pay the $14 purchase 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 child aged 15, barely subsist on $200 of monthly income. Out of this meager income, she must monthly, pay for rent ($110), oil heat ($35), electricity ($10), water and garbage ($5), telephone ($7), and transportation ($6), a total of $173. The $27 that remains must be utilized for such necessities as food, clothing, school supplies, medical costs, laundry, household supplies and hygienic items. Since plaintiff Waldman must pay $28 to obtain her monthly food stamp allotment, she has been unable to purchase a full month's worth of food stamps.

Plaintiff Josephine Evans, and her five children, receive a total monthly income of $272. Her total expenditures for rent, electricity, oil, telephone, school lunch fees, school transportation fees, and her transportation expenses total $192.25. This leaves her with $79.75 for such necessities as food, clothing, school supplies, medical costs, laundry, household supplies and hygienic items. She is unable to pay the $82 monthly purchase price required to buy food stamps for her family and has, therefore, failed to obtain food stamp relief for over a year.

Plaintiff Beatrice Smith's seven-person household has a total monthly income of $360. After paying her family's expenses of house payment, oil for heating, water, electricity, telephone, debts, household supplies, clothing, laundry, and medical expenses—such expenses totalling over $273—she has less than $87 left for food, house repairs, school expenses, transportation, and several other necessities. As a result, she cannot pay the $100 monthly purchase price to buy her way into the Food Stamp Program. Plaintiff Smith's household has, therefore, been unable to purchase the full monthly food stamp allotment for the past 4 months.

The office of King County Executive John Spellman has conducted a thorough study of the food availability and hunger problems in the area. The following findings are listed in that study:

1. There is an extensive group of county residents, which for reasons of geographical isolation and lack of adequate transportation facilities, is experiencing great difficulty in making use of the Food Stamp Program. Located in the unincorporated area of the county or on the fringes of incorporated jurisdictions, these people, often elderly, experience problems in reaching Food Stamp Certification Centers, Food Stamp Distribution Centers and food outlets . . .

2. A second problem area is indicated by the present situation in the housing market in King County. Homes reacquired and in inventory by FHA now exceed 2,700 units in this area. There are many thousand delinquencies and there is virtually no market for homes. The effect of this situation is to provide no alternative for persons whose income has been drastically reduced, other than to continue making substantial home payments, thereby reducing disposable income available for food purchase.

3. Associated is the problem of persons qualifying for the Food Stamp Program near the high end of the income standard. Fixed costs of living tend to reduce actual disposable income below the Food Stamp cost requirements thereby effectively eliminating such persons and families from the program. A variety of individual solutions to this problem have been attempted, but the problem has been compounded by other factors.

As an example: Many people, including many elderly persons, are seeking relocation in order to reduce rental costs and free additional dollars for food. During the first quarter of 1971, local requests were made for 2,200 additional rental units under the provisions of Section 23 of the Housing Act to provide rental assistance. At present, there are insufficient low cost or supplemental units of people threatened with dislocation as a means of remaining in the Food Stamp Program.

The final step in this tragic chain has been the increased cost of stamps under the new Food Stamp regulations. People who can't relocate to reduce their rent because of a lack of low cost units, whose welfare allotments have recently been cut, whose basic cost of living has increased since welfare standards were last updated, whose minimal resources are, in fact, not liquid under present economic conditions now must pay an increased cost for food stamps.

Clearly, there are many people who simply cannot avail themselves of the Food Stamp Program even though on paper they seem to qualify. Statistics from the Washington State Department of Social and Health Services show a continuing decline in the number of Food Stamp recipients in recent months even though unemployment continues to rise.

4. Current State Public Assistance Rules still preclude payments to single individuals between the ages of 18 and 50. Without the benefits of some assistance, many of these people just cannot afford to take part in the Food Stamp Program. The rule was required to obviate potential State fiscal problems; but, it has a singularly bad effect in an economy like King County where unemployment exceeds 15 percent.

5. Single people, attempting to pool resources in order to survive in the present economic climate, find they are not eligible for food stamps due to restriction on communal living arrangements—even though such arrangements could make possible utilization of the combined resources of the people involved. In King County we are not talking about groups of idle, voluntarily unemployed persons. Voluntary unemployment is an invalid and untenable consideration when there are no jobs or when your age precludes you from active employment.

6. As Case No. 1 from the visiting nurses points out, individuals who attempt to gain employment are, in fact, penalized by rules of the Food Stamp Program. Casual workers with variable monthly incomes are required to obtain monthly recertification. As income rises, so does the cost of food stamps. Yet, other bills don't change with increased income—housing, utilities and medical bills remain constant. Only under the Food Stamp Program rules do we create a basic living cost increase with expanded income.

7. Still another problem area relates to seasonal variations vis-a-vis living costs. It is obvious that utility costs are higher during the winter months as more heat and light are required in the home. (In fact, the cold spring and early summer in the State probably kept utility costs high past their normal downturn point.) No consideration is given such factors in determining costs standards. Along the same line, families with children in school can avail themselves, in some cases, of hot breakfast and, in most cases, hot lunch programs during the school year. In the summer months, however, these programs drop leaving families with effectively increased food costs and no built-in adjustment to compensate for this very real seasonal change. If such adjustments are not possible, these other special food programs should be extended on a year-round basis.

8. Finally, we find the general emergency kinds of cases. This area includes persons awaiting qualification for Food Stamp and other assistance programs, persons experiencing unexpected costs such as medical bills, and those whose food stamps or cash are lost or stolen. Considered as a single problem type, it appears that State and Federal programs fail, at present, to consider these short-term problems which result in hunger for many households. A capability for immediate action to feed people for the duration of emergencies would be a major improvement in the Food Stamp and other assistance programs.

As a result of this study, King County

Executive John Spellman requested the Department of Agriculture to authorize concurrent Food Stamp and Direct Distribution Programs, certification and distribution of food stamps through retail stores, revised standards of food stamp eligibility to recognize the difference between "real" and "apparent" assets; and, either a reduced cash contribution by an individual to his stamp purchase, or granting of the bonus stamps without requiring the cash contribution at all. The Agriculture Department responded by offering the following opportunities to the State and the county to improve the operation of the stamp program and otherwise alleviate the hunger problem. The Department offered to permit stamps to be distributed through post offices, to have permit certification for the program to take place at unemployment offices, to expand the special feeding program for infants and mothers from 750 to 1,500 slots and to permit nonprofit institutions to take advantage of Federal surplus commodities. Beginning on October 12, there were 33 post office branches dispersing food stamps in King County. This effort has been received with great enthusiasm and praise in the Seattle area and it may be propitious to now expand this experiment on a national basis.

The Department also conducted an on-site investigation of the Seattle Food Stamp Program to determine in what manner it might be better operated to serve potential recipients. The investigators determined, on the whole, that the program was among the best operated in the country but that hardship provisions—special deductions from gross income for unused expenses—would not be uniformly administered. State officials agree that better administration of hardship provisions might enable more persons to participate in the program. And the State was recently given permission by the Agriculture Department to calculate real utility expenses, rather than a previously fixed amount, in granting hardship allowances. This concession should be of some assistance to a number of the area's poor. But State officials, while pleased with this further flexibility on hardship allowances, fear that its impact will be necessarily limited by the ability of caseworkers to implement it. The granting of the allowances involves increased documentation and verification, further complicating an already burdensome application process for both the administrator and the applicant.

Even if this additional use of hardship provisions should prove helpful in a number of individual cases. State officials believe this help will be more than offset by the grossly adverse effects of the new Federal Food Stamp Regulations scheduled to be implemented in the State within the next month. The officials estimate that at least 26,000 families, and as many as 35,000 persons, may be rendered ineligible for food stamp benefits because of the new regulations.

The inherent limitations of the Food Stamp Program plus the inadequate and now increasingly unavailable benefits from Unemployment Insurance have made the volunteer Food Banks the last resort for many of Seattle's needy. A newspaper series by the Associated Press, published in the Seattle Times, described the New Poor who had come to depend on the Food Bank:

Society may be evolving ways to impoverish people faster than it is developing means to help them, a survey of the hungry in Washington indicates.

The chasm between new needs and old solutions widens so much daily that private efforts often reach back to the frontier spirit of neighbors helping neighbors.

Society is not prepared to think of a middle class suburban home owner with two cars in the garage as being in need of outside help to put food on his table.

But neither can that man bring himself to sell his property in order to fit the official definition of poor.

Advancing technology and shifting economic trends have combined to create a new class of poor.

They are too well-to-do to receive assistance meant for the poor but yet unable to provide for themselves.

In that same series, one of the Neighbors in Need organizers, the Reverend Alan Ward of the Metropolitan Ecumenical Ministry of Seattle, described the emotional state of many of the New Poor by the time they show up at one of the Food Banks:

The one thing that will drive proud people to seek charity when they wouldn't otherwise is the hunger of their kids.

We've had family after family which has gone without food for several days. Usually the father comes in and says "I wouldn't be here but I can't stand to have my kids hungry."

The Committee staff visited several Food Banks, one located in an old house in a neighborhood known as Capital Hill. Food was being handed out when the staff arrived. The process for giving out the food was courteous and quick. The people had all received numbers and were milling around in front of the house, or waiting in line at the door for their number to be called. Once a person's number was called, he would move into a front room of the house for an interview with one of the volunteers. The interview consisted mainly of questions regarding 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 moved to a nearbly table where he was handed a carton of groceries. The cartons clearly contained no more than several days worth of food, certainly no more than a week's supply. As the line of recipients began to dwindle. so did the food available.

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 noon or 1 p.m. Sometimes, when food was in short supply and the needy were out in force, the atmosphere of the Food Bank could turn frightened and angry. "The strain on the staff is terrible when that happens," said one of the volunteers. "They have to start keeping track of how much food is left and how many people they still have to go. A couple of times, we have 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 cartons of canned salmon which had been processed and donated by the State. Not only was the warehouse practically bare, but there was no assurance of a supply of food to restock it again.

The latest effort to raise money for Neighbors in Need was called Operation Hunger. According to its director, Mike McManus, Operation Hunger succeeded in raising between $30–$40,000 over the summer—and another $10,000 more recently. But now the well of volunteer donations is about dry. "The community has simply run out of the ability to give," said McManus. "People have no idea where it is going to end. Twenty to 25 percent of the givers in the past have been unemployed themselves."

Mr. McManus and others knowledgeable regarding the Food Banks said they are now existing day-to-day and may have to close 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."

FEASIBILITY OF A FEDERAL SURPLUS FOODS PROGRAM

The warehouse mentioned by the Food Bank volunteer is the USDA storehouse for surplus commodities—now primarily used for the State's School Lunch Program. When the State operated a Direct Distribution Program, the warehouse served that purpose as well.

The existence of the Sand Point warehouse and its stock of food—so close to the Neighbors in Need warehouses, that are now practically bare—is a source of great discontent in the Seattle community. An editorial in the Seattle Times summed up this feeling:

"Those involved in food-bank and hot-meal programs are becoming concerned that government agencies are deliberately ignoring their responsibilities and leaving things to the volunteer organizations.

"Ironically, this Nation sends aid to the hungry of other nations, yet is failing to provide minimal basic relief of hunger for people walking Seattle streets."

It is difficult for people to understand, for instance, why the food that is so desperately needed cannot simply be transferred from one warehouse to the other. The difficulty with such a transfer, as the Agriculture Department has explained, is that the Neighbors in Need Food Banks do not use any eligibility or screening requirements when they distribute food. This is because of a deep conviction on the part of Neighbors in Need staff that only desperately hungry individuals come to the Food Banks, and that it would be an intrusion on their already invaded privacy to ask detailed personal questions. The USDA, on the other hand, must account for Federal food which is distributed and prove that it only goes to truly needy individuals.

It is for all of these reasons—the dwindling unemployment benefits, the limitations of the Food Stamp Program and the crisis facing the volunteer food effort—that Washington State applied officially for permission to operate a Direct Distribution Program concurrent with the State's Food Stamp Program. The Direct Distribution is less satisfactory than the Food Stamp Program in almost every conceivable way except one. It does not provide most recipients with as much food or as good quality nutrition as food stamps. It is often more difficult for recipients to take advantage—because of the bulky nature of the food package. It offers less choice than food stamps used 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 stamp allotment of $28 to a person—when he needs $14 to buy the stamps and doesn't have that $14—is useless. That same person, however, would be entitled to $18 worth of surplus food for nothing.

There are clearly a significant number of persons in the Seattle area who are in exactly that kind of situation. It is for that reason that the State has applied for permission to operate a Direct Distribution Program.

The State's request for concurrent programs

The initial involvement of the State of Washington in requesting an expanded role for USDA feeding programs came in a joint letter from Senators Magnuson and Jackson, and Congressmen Foley, Adams, and Hansen on December 14, 1970. That letter requested that the pilot Food Certificate Program then in operation in Yakima, Washington, be extended to the whole State; or, that the Supplemental Food Program then in operation in Seattle be extended to the entire State. On December 15, 1970, Governor Evans wired

Secretary Hardin in support of the congressional delegation's letter.

The response from Assistant Secretary Lyng came on January 4, 1971, and indicated that the U.S. Department of Agriculture was "firmly committed to the Food Stamp concept for supplying the family with its basic food needs" and that, nonetheless, "budgetary limitations" would not permit significant expansion of either program. On January 5, 1971, Senator Magnuson wrote again to Secretary Hardin about the inconsistencies in Assistant Secretary Lyng's statements concerning budgetary requirements.

The next significant request from the State came on May 1 when Governor Evans wrote to Secretary Hardin asking that any future pilot projects include areas in Washington State. On May 28, the Secretary wrote to the Governor indicating that the Department of Agriculture was evaluating its programs to determine if expansion was warranted.

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 Nation. Later that day the Governor received a call from Lyng denying any such dual operation. Upon the Governor's arrival at the Western Governors Conference at Jackson Hole, Wyoming, on the same day, he told reporters that he was "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 Charles Ernst, Western Regional USDA administrator, making the request. Miss Everson's letter was based on the authority contained in Public Law 91–671 and Public Law 92–32. Her letter made it clear that the State of Washington was fully committed to paying for the modest administrative expenses involved in a Direct Distribution Program.

The following day Governor Evans received a letter from Assistant Secretary Lyng which, in effect, reduced his telephone conversation of July 15 to writing. Lyng said, in effect, that the Food Stamp Program was doing an effective job and was being well administered. Governor Evans traveled to Washington, D.C. on July 28 to present a whole economic package to the Office of Management and Budget which included the dual operation of both feeding programs.

Finally, on August 5, Mr. Ernst of USDA responded to Miss Everson's official letter of request. He said that "while Public Law 91–671 does permit the dual operation, the Department has decided it will not approve any dual operation . . . it cannot be justified."

Subsequently, during the course of hearings by the U.S. Senate Select Committee on Nutrition and Human Needs on the Commodity Distribution Program, Senator Percy questioned Assistant Secretary Lyng very closely on the Department's refusal to grant the State of Washington's request for dual program operation.

Lyng admitted that the Department would be "perfectly willing to permit simultaneous distribution of these commodities and food stamps where there seems to be . . . a practical, sensible reason for so doing. But we don't think that situation exists or a good cause has been made for it by Washington State." Furthermore, Lyng stressed that there is "no hard evidence" that the Food Stamp Program was not meeting the needs of the people of Washington.

On October 13, Governor Evans held another press conference in which he indicated that Assistant Secretary Lyng did not know the difficulties and problems that confronted the people of Washington. Then, later last month, Secretary Lyng came to Seattle to meet with the Governor and County Executive, and to visit the Food Banks run by Neighbors in Need. At this moment, the Agriculture Department maintains that there is simply no need for dual food program operation in Washington State.

Congressional intent: Concurrent programs

The Food Stamp Act before 1970 clearly prohibited concurrent programs, except in unusual circumstances. The language of the Act before 1970 read:

In areas where a food stamp program is in effect, there shall be no distribution of federally owned foods to households under the authority of any other law except during emergency situations caused by a national or other disaster as determined by the Secretary (7 U.S.C. § 2013(b))

Under this language, the Agriculture Department only permitted direct distribution programs to operate in areas struck by a natural disaster—such as a hurricane or flood. The reasoning, in such a case, was that the normal channels of food distribution had been disrupted.

In the past several years, however, as the Food Stamp Program expanded dramatically—replacing Direct Distribution programs—the problem of people having enough money to purchase food stamps became more apparent. In many places, there were dramatic reductions in participation in Food Stamp Programs as opposed to previously operating Direct Distribution Programs. This problem was communicated to the Congress and played a significant part in the changes that were made in the Food Stamp Act in 1970. Specifically, Section 4(b) of the Act was changed to read:

In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made: (1) during temporary emergency situations when the Secretary determines that commercial channels of food distribution have been disrupted; (2) for such periods of time as the Secretary determines necessary, to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by a food stamp program; or (3) on request of the State agency: Provided, That the Secretary shall not approve any plan established under this Act which permits any household to simultaneously participate in both the food stamp program and the distribution of federally donated foods under this clause (3). (7 U.S.C. § 2013(b)) (emphasis added)

It should be noted that—while there was considerable controversy and disagreement over the differing Food Stamp amendments passed by the Senate and the House of Representatives in 1970—there was unanimity between the Senate and the House conferees on this provision. It was clearly the purpose of the conferees to encourage States and local jurisdictions—where they are willing to pay the administrative cost—to operate a Direct Distribution Program concurrent with the Food Stamp Program.

The House Report to the 1970 Food Stamp Act amendments states: "If the State agency requests simultaneous operation for a period of time beyond that deemed necessary for an orderly transition to a stamp program, or if the State agency wishes to institute the Commodity Distribution Program in an existing food stamp area, the full cost of handling and issuing the commodities in the food stamp area would be at the expense of the State agency or the local government unit." (House Rep. No. 91–1402, 91st Cong., 2d Sess. (1970)).

The conferees further had reason to believe that the provision was fully supported by the Administration speaking through the Secretary of Agriculture. Testifying before the House Agriculture Committee, former Agriculture Secretary Clifford Hardin said:

At present, State and local governments may not operate both food stamp and commodity programs in the same area except during a brief period of transition from one program to the other. We have proposed that *both programs should be allowed to operate simultaneously wherever the local government is willing to assume the additional administrative expenses.* (Hearings on the Amendments to the Food Stamp Act before the House Agriculture Committee (1970), at 9) (emphasis added)

After Secretary Hardin's prepared statement was completed, he had the following exchange with Congresswoman Katherine May:

Mrs. MAY. Now, to go to the direct distribution program question again, you have requested that we be able to continue direct distribution of commodities along with food stamp programs, which in the original presentation of this bill to Congress, was not to be allowed if savings dollar-wise and more efficient distribution of nutritional food were to be accomplished. But I understand you propose now being able to have both programs. *Now, under what circumstances in a county would this be necessary?*

Secretary HARDIN. This would be, first, if the city or county was willing to carry the total cost of administering both programs.

Mrs. MAY. The total cost of administration, not the cost of the program?

Secretary HARDIN. No, administration. And of course any one family or individual would be on only one or the other of the programs, not both . . . (Hearings, *Ibid*, at 24–25) (emphasis added)

The Secretary was then pressed to explain the rationale for implementing both food relief programs, and under what circumstances such concurrent operations would be accomplished. The Secretary provided the following information to the committee:

Since the Food Stamp Program has been in operation there have been requests to operate both the Food Stamp Program and the Commodity Distribution Program in the same area. In most instances, these requests were made by groups or governmental agencies which felt that the Food Stamp Program was not reaching all of the needy people because some could not afford to purchase the stamps or that the lowest-income families were not receiving enough stamps to meet their minimum nutritional needs.

* * * * * *

We . . . believe that when a State or local government feels it has a special problem, and if they are willing to bear the additional administrative cost, we believe that such simultaneous operations should be permitted. (Hearing, *Ibid*, at 25) (emphasis added)

Congressman W. R. Poage, Chairman of the House Agriculture Committee, taking Secretary Hardin at his word, had the following to say on the floor of the House before the 1970 amendments were voted on:

"The Department of Agriculture has endorsed the bill and calls attention to some of the provisions of the committee bill which are clearly intended to and do liberalize the existing law. Here are the provisions with which the Department is especially pleased: . . . Simultaneous distribution of food stamps and commodities in local areas requesting both programs." (Cong. Rec., 91st Cong., 2d Sess. (December 15, 1970), at H11818)

Further congressional intent on concurrent programs, particularly in areas of high unemployment such as Seattle, was indicated in the passage of the 1972 Appropriations Act for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies. The Act included an amendment—sponsored by Senator Warren Magnuson, Chairman of the Appropriations Subcommittee on Labor-HEW—providing:

That $20 million of this appropriation shall be used by the Office of Economic Opportunity to finance Emergency Food and Medical Services programs in eligible areas of

exceedingly high unemployment, as defined in Section 6 of the Emergency Employment Assistance Act of 1971, to be reimbursed to the Manpower Training Services Appropriation by the Office of Economic Opportunity immediately upon enactment of an Appropriation Act for the Office of Economic Opportunity in fiscal 1972.

Senator Magnuson's purpose in sponsoring this amendment to the Appropriations Act was to provide funds—for Seattle, and similar areas—to finance the operation of concurrent food programs.

Following the passage of the Appropriations Act, Senator Magnuson wrote the Director of the Office of Management and Budget, George Shultz, requesting immediate implementation of the emergency food provision. The OMB replied that it did not believe the emergency funds were required to meet the nutritional needs created by Seattle's economic difficulties, since the area had an operating Food Stamp Program. If the Food Stamp Program proved inadequate to the crisis, the OMB said, then the emergency money would be released.

CONCLUSIONS

1. Seattle and its surrounding areas have suffered a severe economic setback in the past several years. There are now almost as many people unemployed as were employed by the aerospace industry at its peak. There are no immediate prospects for a rapid improvement in the area's economy. The unemployment rate is expected to remain at an extremely high level—probably around 11 percent—during the next year. Despite the generally sound economic base of the State as a whole, it is not unfair to call Seattle an area of "economic disaster."

2. As a consequence of the depressed economic conditions, there is widespread evidence that many families are suffering nutritional deprivation. This deprivation is likely to become more severe as the available social welfare support programs become more inadequate to meet visible needs. Unemployment benefits are being exhausted at an increasing rate, now estimated at 9,000 a month. The Public Assistance Program—despite a dramatic growth in the past 2 years—is proving inadequate to fill all of the area's nutritional needs and has been cut back 15 percent by the State in order to balance its budget. It is probable that less than half of those eligible for the Food Stamp Program are participating in it. Clearly, many are not participating because they cannot afford to buy into the program to receive their bonus stamps.

3. The Seattle community has made a remarkable effort to fill the area's hunger gap by sponsoring a network of volunteer Food Banks. Since they began operating, it is estimated that the Food Banks have filled 300,000 requests for food. A large number of those persons going to the Food Banks report that they are unable to afford the cost of food stamps and that public assistance payments do not provide enough for them to eat adequately. This volunteer effort—a last resource for so many Seattle needy—is in danger of collapsing. As one official put it: "The community has simply run out of the ability to give." There is deep concern throughout the community about the possible adverse effects of an end to the Food Banks—particularly should it occur as winter approaches.

4. 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 Distribution Program could be of vital assistance in alleviating the area's nutritional needs. The Agriculture Department has ample foodstuffs available and has clear legislative authority to approve the State of Washington application to operate a Direct Distribution Program concurrent with the Food Stamp Program in the Seattle area. The Agriculture Department has taken the position that it does not intend to approve such an application for 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.

5. Many of the New Poor will still be ineligible for Federal food benefits because of other resources and assets. It is imperative that these families have some place to turn in moments of crisis, so that they will not go hungry. The volunteer Food Banks have served this purpose in the past and, with additional support, can continue to do so in the future. 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 wtihin 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 programs in high unemployment areas are ideally suited for the crisis now facing the volunteer food assistance effort in Seattle. Efforts should be made immediately to provide those funds, on a flexible basis, to Neighbors in Need that they may continue operating their volunteer Food Banks.

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 major tool in the restoration of humanitarianism in the Government of this Nation.

To signal the start of a fresh campaign to reeducate the bureaucrats as to the real meaning of our democracy, I am offering a "sense of the Senate" resolution for consideration as one of the final acts of the first session of this Congress.

This resolution calls upon the Attorney General of this Nation to honor the judgment of the Federal court in Seattle, by not appealing its ruling in favor of feeding the poor and further calling upon the Department of Agriculture and other agencies to face the truth, that there is a severe hunger problem in this Nation, and to fulfill their responsibility under the law by making available, surplus food commodities to feed the hungry.

Mr. President, why must citizens of the richest Nation in the world have their survival dependent upon mercy shipments of rice and canned goods from another nation across the Pacific? There is no answer to that question that is consistent with the U.S. Constitution or the concepts of democracy, human dignity, and individual worth upon which this Nation was created.

Mr. President, I send my resolution to the desk and ask unanimous consent that it be placed upon the calendar and be immediately considered by the Senate and that its text be printed in the RECORD.

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

S. RES. 212

Whereas the Seattle, Washington area is suffering the highest rate of unemployment in the United States and thousands of hungry people are unable to find sufficient food; and

Whereas the federal Food Stamp Program in the State of Washington is inadequate to meet the basic needs of the hungry citizens as is fully documented by the Report of the Senate Select Committee On Nutrition and Human Needs; and

Whereas Congress has provided extensive authority and funds for food distribution programs to be provided in addition to the existing food stamp program; and

Whereas the administration has refused to implement or abide by the laws enacted by Congress to feed hungry people; and

Whereas the failure of the Executive Branch to implement the laws and provide sufficient food distribution in the Seattle area has resulted in thousands of hungry citizens relying upon voluntary private food donations and on foreign aid from Japan, which is providing rice and canned goods and will continue until we take action on our own; and

Whereas the District Court for the Western District of Washington has ruled that the Secretary of Agriculture acted unlawfully, arbitrarily and capriciously in refusing to implement the law and to approve a commodity distribution program for King, Pierce, Snohomish and other counties in the State of Washington; and

Whereas the Department of Agriculture has indicated that they may appeal the court decision and not agree to comply 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 has acted unlawfully in refusing to approve food distribution programs for Seattle and adjacent areas will not be appealed 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.

The PRESIDING OFFICER. The clerk will call the roll.

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.

The second assistant legislative clerk proceeded to 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 go over under the rule.

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 Federal Government 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 have exhausted their 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 it requires cash. In a depression many people cannot sell their house or car or other vital family assets. In fact, as few as 52 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 through the food banks. In fact, when I was home in September, a woman came to our home, north of Seattle, collecting for Neighbors-in-Need. It reminded me too vividly of the great depression, nearly 40 years ago.

Recognizing the large number of people who could not utilize food stamps, and realizing that the volunteer effort could not go on forever, 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 restated the Department's position. 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 Seattle; I have seen them, I have talked with them, I have read their letters—they are hungry and the food stamp program is not taking care of them.

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. Not that I condemn or criticize 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 we have helped from a point of prostration—she was 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 shame for America.

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

Mr. PASTORE. I yield.

Mr. JACKSON. I would point out, Mr. President, that Kobe, Japan, has 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 the needy in America, at a time when a 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—overflowing harvests and hungry people.

Mr. MAGNUSON. Mr. President, may I suggest, if the Senator will yield, that in the Pacific Northwest there are warehouses full of surplus food 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. Mr. President, 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 assist 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 court ruling—an 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

(By William W. Prochnau)

WASHINGTON.—Seattle's new poor, as Senator George McGovern has called 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. And the Senate has made a desperate 11th-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 a national standard, were announced last summer but are just now beginning to go into effect. Eight states already have complied, with Washington state expected to make the change over after the first of the year.

The Agriculture Department, which came up with the national regulations under congressional order but not under congressional direction, says that about 2 million new persons will become eligible under the change.

Department spokesmen also say the change will deny stamps to at least 75,000 persons now receiving them. But other sources, including Schlossberg, say that the number will be considerably higher.

Unquestionably, the new regulations will mean benefits for many poor, almost destitute, families—especially in the South and some poor areas of the Midwest. All of the benefits will go to states which have income ceilings lower than the new federal-eligibility standards.

But the problem will arise in states which had more liberal rules—Washington, California, New Jersey, New York, Massachusetts, Michigan, Minnesota, Rhode Island, Vermont, Wisconsin, South Dakota and Nebraska.

In Washington, the elderly probably will be the hardest hit. Washington has had relatively high-income ceilings for families of one or two persons—family sizes in which most elderly persons find themselves.

Under the old rules, a one-person family could have a monthly income of up to $195 and still receive some food-stamp benefits. Now the ceiling will drop to $160. For a two-person family, the ceiling will fall from $250 a month to $210.

Among larger families, the new regulations appear to be more liberal. A family of six, for example, will qualify for food stamps with an income of $493. The old rules in Washington state cut a family of six off at $435.

But Schlossberg contends that the higher ceilings are misleading.

Under the old rules a family of six, with the maximum permissible income, would have paid $112 for $144 worth of stamps. Under the new rules the family would pay $139 for $148 worth of stamps.

Schlossberg argues that few families will bother with the $9 bonus and instead will drop out of the program.

The hardest hit are expected to be the elderly who are on low, fixed incomes. They could be knocked out of the program entirely.

But the "new poor"—the aerospace engineers and highly skilled workers, many of whom now have been out of work for months or even years, also could be deeply affected and perhaps edged out of their benefits.

Under the regulations, a marginally poor family with the program's maximum allowable income probably will find food stamps barely worth the effort of obtaining them.

A family of four with a $360 monthly income—about what unemployment benefits provide in Washington state—will have to pay $99 to receive stamps worth $108. The family now would pay $82 for $106 worth of food stamps.

Kem Schlossberg, staff director of McGovern's select Committee on Nutrition and Human Needs, says that the "new poor" will find food stamps "practically a waste of time" after the new regulations are in effect.

Schlossberg charges that the regulations are "deliberately calculated" to push such families out of the program and thereby reduce federal costs. "It is a hell of a crazy program," the McGovern aide said.

Senator Warren G. Magnuson, who has been a sharp critic of the Agriculture Department's handling of aid for the hungry, agrees that the changes probably will mean "a smaller total federal expenditure" for the food stamp program.

Magnuson added that he thought it was odd that this should come at a time when there has been strong congressional pressure to increase aid to the hungry.

"This is a real setback for these people, certainly no gale at all," Magnuson said. "It is especially painful in Washington state, where the cost of food is the fourth highest in the nation."

Mr. MAGNUSON. Our unemployment is getting to the point where our rate is not only the highest in the Nation, but it is going up instead of down.

I realize the problem of the distinguished acting minority leader, that he may want to discuss the resolution with some of the people on his side of the aisle, and take a look, which I am sure he would want to, at the district court ruling, since we only quote the ruling of the district court.

Someone down at the Department has said that the Secretary may appeal. An appeal would take months. In the meantime, they are walking the streets, 8,000 now being fed by Neighbors-in-Need. That is all the donated food we have, except what we are getting from Japan, which may add to it. There are 10,000 being turned away every week. This is an emergency. This is not to chide anyone down at the Department of Agriculture, but they absolutely refuse to budge. We have had meeting after meeting with them, and they still insist that the food stamp program is sufficient, while everyone says it is not, including a Senate committee which made a report last week.

Seattle is a disaster area, and I say it is humiliating—the Senator from Michigan was not here earlier—it is humiliating to me to have the people of Japan sending us food when we have surpluses and they keep insisting that the food stamp program is sufficient. It is not.

It is not only Seattle that is involved. Some other problem areas have shown up in the State of Washington.

I hope we can get some action on this matter. I have no word that the Attorney General will definitely appeal this case. I think they have enough compassion down there that they would not appeal, and perhaps the new Secretary of Agriculture will do something. I do not know. In the meantime, it is pretty bad. It is very bad at this time of the year, during the winter months. I am going to try to go home next week. How can I face 18,000 people who are hungry?

Mr. GRIFFIN. Mr. President, will the Senator yield briefly for a comment?

Mr. MAGNUSON. I yield.

Mr. GRIFFIN. Mr. President, I want to make it clear that my temporary objection to immediate consideration and passage of the resolution this morning does not go to the merits of the resolution, necessarily. Indeed, I do so with some reluctance, because I can understand the deep feelings of the Senator from Washington.

Mr. MAGNUSON. My colleague and I have had many conferences with the Department.

Mr. GRIFFIN. I can understand the feelings of both Senators from Washington. At times I have been rather unhappy with some of the bureaucratic decisions made within the Department concerning programs to feed the hungry in my own State, particularly in Detroit.

Mr. MAGNUSON. Yes.

Mr. GRIFFIN. So I know something about the problem.

Mr. MAGNUSON. Of course, this applies to all States.

Mr. GRIFFIN. 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 unanimous consent. The resolution would involve the Senate in a judicial proceeding that is underway. It is necessary that other interested Senators at least have noticed that the resolution is before the Senate. I am sure the Senator from Washington, who is chairman of one of the committees on which I serve, will understand my responsibility in this respect. I would not be representing the Senators on this side of the aisle if I did not at least do that. As I understand the rules, the objection will cause the bill to go on the calendar, and it can be taken up tomorrow.

Mr. MAGNUSON. I ask the Chair whether that is correct.

The PRESIDENT pro tempore. The Senator is correct.

Mr. MAGNUSON. I know that the Senator from Michigan is doing what he thinks he should do as acting minority leader. But I sat for a whole day hearing testimony on this, a month ago, and some of the people came from the Detroit area and talked about their problem. I do not know whether it is any better or any worse than mine, but there is a problem there. The Senator from Connecticut has many problems in his State, where unemployment has gone up. All we are trying to do is get the Senate to consider this matter and put on the record its position on the utter disregard of the Agriculture Department and the White House to the problem facing thousands in western Washington.

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

Mr. MAGNUSON. I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. BYRD of West Virginia. Mr. President, may I ask the distinguished assistant Republican leader whether or not the distinguished Senator from Illinois (Mr. PERCY) will be here to claim his time under the order?

Mr. GRIFFIN. It is my understanding that he will not.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be substituted for the distinguished Senator from Illinois (Mr. PERCY) and be recognized for 15 minutes.

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

The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. This will not alter the overall time schedule. I yield my time now to the distinguished Senator from Washington.

Mr. MAGNUSON. I do not want to belabor this matter, but this is an emergency. It is most amazing. We have been trying to get this done for months to change the callous position of the Department of Agriculture. The Senator from South Carolina, the Senator from

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 reversing foreign relations. 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 last week against USDA.

The Salvation Army and church groups in Seattle got together—they call themselves neighbors in need—and they are now serving 8,000 people each week, from contributions of food and money from myself or anybody else who sends them something. They are turning away some 10 to 12 thousand people each week.

The Senate Select 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 urging of Senator MCGOVERN and Senator PERCY. Senator PERCY made a speech on the floor of the Senate about a week ago, stating that western Washington was a disaster area, and stated this report as evidence of that fact.

Many things have happened since we started this and each has been rebuffed by USDA. This is why I would like some emergency action by the Senate.

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

Mr. MAGNUSON. I yield to the Senator from Kentucky.

Mr. COOK. I say to the Senator from Washington that I would hope that he would let it lay over until tomorrow.

Mr. MAGNUSON. Yes; I am willing.

Mr. COOK. I ask unanimous consent that this resolution be immediately printed and that a copy be on the desk of each Senator tomorrow morning.

This is an argument that we have gone through time and time again with the Agriculture Department. We pass bills—the House and the Senate. We say that they can work in compatability with each other, that they work as a matter of necessity with each other where you can have a distribution system and a stamp program in counties that can run parallel, where the necessity is, and the agriculture Department has refused to do it.

I might say that I would hope that between now and tomorrow, Senators would digest this resolution and that the Agriculture Department would digest this resolution. It seems rather harsh language on page 2, such as "unlawfully, arbitrarily, and capriciously," but this is what the lower court decision said.

Mr. MAGNUSON. That is right.

Mr. COOK. This is what the judge said the Agriculture Department had done in relation to the law.

So I think that the Members of this body should have an opportunity to read this resolution, and then let us discuss it again tomorrow. I would hope that between now and tomorrow, the Agriculture Department would realize the seriousness of the problem of the Senator from Washington and, frankly, realize the seriousness of this resolution.

Mr. MAGNUSON. If the Agriculture Department says today that they will supply emergency assistance, I will be glad to withdraw the resolution.

But, on top of that, I want to say to the Senator from Kentucky, I put in the Labor, HEW appropriations bill—this was in July, when this started—$20 million, as the Senator will recall, which was given to the Labor Department, which in turn was going to send it to OEO for their emergency food and medical services program. In the meantime, we had 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, so they have funds. This can be used 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. The Office of Management and Budget operating with direct orders from the White House has impounded the funds for the emergency food and medical services program.

As the Senator from Kentucky has pointed out, we use in the resolution the language that Judge Becks used in his decision. That is all we have done.

Mr. COOK. This is not the language of the Senator from Washington. This is the language of the Federal district court.

Mr. MAGNUSON. And they had a long hearing on this.

In the meantime, we are in serious trouble. Our rate of unemployment has not gone down at all. As a matter of fact, the House is hopefully going to recommend on Monday that we extend unemployment insurance, on that issue both sides of the aisle supported me unanimously.

It gets down to people on social security who get $140 a month. The first thing they are going to do is to pay their rent and pay for electricity and pay for heat, to keep warm this time of the year, in my part of the country. They simply cannot afford to buy food stamps.

I do not understand the position of USDA. The Senator from South Carolina is deeply disturbed about it. He went out there with me. The fact is, there is plenty of surplus food to use. Also 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. It is humiliating. I do not know if this has ever happened in the United States before. I cannot recall it. I support giving food to hungry people wherever they may be. But, charity begins at home. Let us first take care of our own. That is what this resolution is about. So I appreciate the feelings of the Senator from Michigan about this. I know that he wants to see something happen. I brought this matter up under unanimous consent, it was the only way to do it, after these things had happened to me. Yesterday, we okayed in conference the supplemental appropriation bill which has some money in it for OEO, and it contained both a law and a directive.

So I am very glad to have this resolution go over until tomorrow, but I hope that we will be able to have a vote on it because 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 he 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, I shall be the happiest person in Washington and will be very glad to consider withdrawing the resolution and to work with the new Secretary.

OEO has money and authority. It was just appropriated; they got their money yesterday. There is no problem of distribution. Neighbors in Need is made up of church volunteers, the Salvation Army, Good Will Industries, and all those other good people who will be glad to distribute surplus food, so that there will not be any problem about the cost of distribution.

Neighbors in Need went to Walla Walla, when the President was there about 4 weeks ago, and they tried to talk with him about this problem. I do not know what happened. They did not get to see him. I have a note here, which I did not read until this morning, that the OEO authorization has been vetoed but there is still the money and authority in the appropriation bill—plenty of money available for feeding hungry people.

So, Mr. President, before yielding the floor, let me say that I surely hope the Senator from Michigan and the Senator from Kentucky who have been so helpful in this matter, as well as the Senators from Illinois and South Dakota, and other Senators, 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 the resolution, it will go over under the rule.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. How much time does the Senator 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 1 hour for debate on the cloture motion tomorrow will begin running at 10 a.m.

Under the rule, the Senator's resolution would come up on tomorrow as a 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 wish to withdraw the resolution, 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 ordered.

Mr. COOK. Mr. President, reserving the right to object——

The PRESIDENT pro tempore. Is the Senator making that request?

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. May I suggest to the distinguished Senator from Kentucky that he get 15 minutes prior to——

Mr. COOK. That will be all right.

Mr. MAGNUSON. I will not use up all my time and will be glad to yield the remainder to anyone else.

The PRESIDENT pro tempore. Is objection to the request of the Senator from West Virginia?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do this to assure the Senator from Washington that I will be sure the people in the Department of Agriculture are made aware of the fact that this resolution is pending.

One part of the request that concerns me a little bit is that if there were to be amendments offered to the resolution, there would not be much opportunity for consideration of those amendments.

Maybe that could be worked out but, of course, if there were votes on amendments then the time could well run past the 10 o'clock deadline.

Mr. BYRD of West Virginia. Mr. President, may I revise my unanimous-consent request accordingly, in view of what the Senator from Michigan has just said.

I ask unanimous consent, following the recognition of the two leaders tomorrow, that the distinguished Senator from Washington (Mr. MAGNUSON) be recognized for not to exceed 15 minutes, and that following the remarks of the Senator from Washington, the Senator from Kentucky (Mr. COOK) be recognized for not to exceed 15 minutes; and that, at the conclusion of the remarks by the Senator from Kentucky (Mr. COOK), at 9:30 a.m., a vote occur on the resolution: *Provided, however,* That on any amendment, motion, appeal, or point of order with the exception of nondebatable motions, there be a time limit of 5 minutes, to be equally divided between the senior Senator from Washington and the minority leader or his designee.

Mr. COOK. Mr. President, reserving the right to object——

The PRESIDING OFFICER pro tempore. Is there objection to the request of the Senator from West Virginia?

Mr. COOK. Mr. President, reserving the right to object, I say to the Senator from West Virginia that I do not think I will need 15 minutes. We may probably get this problem resolved, and we have time for a vote, apparently, tomorrow morning, on the resolution, anyway—other than the fact that the Senator from Washington obviously can ask for unanimous consent at any time that the vote be withdrawn; but I want to make it clear that this Senator would not need more than 5 minutes——

Mr. MAGNUSON. I was thinking that I may wish to yield to my colleagues for 5 minutes, anyway, and if the Senator from Illinois (Mr. PERCY) is here, I know that he wants to speak on it, and I will be glad to yield my time to those who want to speak for it.

Mr. GRIFFIN. Mr. President, reserving the right to object, I think that, for the time being, until I do have a chance to check with the minority leader and others concerning this matter, I will at this time reluctantly object to the unanimous-consent request.

The PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. BYRD) is now recognized for 5 minutes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing me for not to exceed 5 minutes be vacated.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under a previous order, the Senate will now proceed to the consideration of S. 1866 with a time limitation thereon of 20 minutes, to be divided between the Senator from New York (Mr. JAVITS), 15 minutes, and the Senator from North Dakota (Mr. BURDICK), 5 minutes.

RELIEF OF CERTAIN PERSONS

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1866.

The PRESIDING OFFICER (Mr. BENTSEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1866) for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which was, on page 1, line 10, strike out "heretofore or hereafter published," and insert "heretofore published, or hereafter published by or on behalf of said trustees, their successors or assigns,".

Mr. BURDICK. Mr. President, the bill, S. 1866, was returned to the Senate with a minor, technical amendment. The Senate is perfectly willing to accede to the House on this matter.

At this time I move that the Senate concur in the amendment of the House.

I believe that the Senator from New York (Mr. JAVITS) has a word to say on this matter.

Mr. GRIFFIN. Mr. President, if the Senator would yield, I think it would be well if we had a quorum call, the time to be charged to the time allocated to the Senator from New York pending his arrival.

Mr. BURDICK. That will be fine.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the pending business?

The PRESIDING OFFICER. The amendment of the House to bill S. 1866.

Mr. JAVITS. Mr. President, what is the time allocation.

The PRESIDING OFFICER. The Senator from New York had 15 minutes. The quorum call has taken 4 minutes. He has remaining 11 minutes.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this bill which is before us purports to vest in the trustees of the estate of Mary Baker Eddy an exclusive copyright on her great work, "Science and Health," upon which a copyright still remains under various extensions of the copyright law for the one edition which was published in 1906. Numerous editions published between 1875 and 1906 are now in the public domain, and, of course, other revisions may take place hereafter.

At the specific request of the Association of the Bar of the city of New York I have previously asked that consideration of S. 1866 be delayed in order to give the association an opportunity to file a statement of its objections to the bill. The chief sponsor of the bill, Senator BURDICK, has graciously agreed to delay consideration of the bill for a few days in order to give the association time to transmit its statement.

I have now received the report of the civil rights committee of the association, which is authorized to speak for the entire association on matters within its jurisdiction. I ask that the committee's report, together with the earlier telegrams to me from the chairman of the Committee on Civil Rights and the Committee on Copyright Law be printed in the RECORD at this point.

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

COMMITTEE ON CIVIL RIGHTS,
November 30, 1971.

HON. JACOB K. JAVITS,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: Enclosed is a report of the Committee on Civil Rights of the Association of the Bar of the City of New York on the subject of S. 1866. This report is forwarded to you on behalf of the Association and with the approval of the President of

the Association, the Honorable Bernard Botein.

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, its recommittal to the Committee on the Judiciary for hearings on the constitutional issues involved, so as to give its proponents an opportunity to respond 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. KAUFMAN.

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, recommittal to 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 for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which would grant copyrights to the trustees under the will of Mary Baker Eddy in various editions of the basic text of the Christian Science Church. The Association's Committee on Copyright Law, basing its stand on the constitutional provisions for copyright and the policy of copyright law, has announced its opposition to certain portions of the bill. We oppose the bill because it would violate the First Amendment prohibition of Congress making a "law respecting an establishment of religion, or prohibiting the free exercise thereof."

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; with a Key to the Scriptures" (hereinafter simply "Science and Health") written by Mary Baker Eddy, the founder of Christian Science, heretofore published or hereafter published by or on behalf of the trustees, would be subject to copyright for 75 years from the effective date of the law or the date of first publication, whichever is later. The bill would affect numerous editions of the work published between 1875 and 1906, 16 of which had copyrights which have expired, and one edition, published in 1906, on which the copyright would have expired in 1962 but for the general legislation which has extended copyrights from year to year while Congress has been considering revision of the Copyright Act. In addition, the bill, by its terms, would be applicable to an unlimited number of editions which might at any time "hereafter" be published by the trustees. In order to give some protection to those who have made use of those portions of Mrs. Eddy's books which have been in the public domain, the bill provides that "no liability shall attach . . . for lawful uses made or acts done" prior to the effective date or, with respect to business undertakings or enterprises involving certain prior commitments, for one year thereafter.

Under the Copyright Act, as now in effect, registration may be obtained for an initial period of 28 years and a renewal term of 28 years. The pending revision of the Copyright Act would create a fixed period of 50 years following the death of the author or, in the case of anonymous and certain other works, 75 years following publication. As indicated above, in order to give existing copyrights the possible benefit of a general expansion of the registration period, Congress has extended from year to year (now through December 31, 1972) all existing copyrights, thereby including the 1906 edition of Science and Health. However, just as that edition's copyright registration would have expired without the general extension, so too would it expire with the adoption of the revision because Mrs. Eddy died more than 50 years ago. In sum, the effect of S. 1866 would be, whether eventually the Copyright Act remains unchanged or the pending revision is adopted, to single out Mrs. Eddy's works in the following respects: (a) remove all versions published prior to the 1906 edition from the public domain and impose thereon until 2046 or 2047, either a new copyright or, a copyright for the first time; (b) extend to the same date the copyright on the 1906 edition; and (c) allow future versions to be registered for a period of 75 years from date of publication.

Private bills in the realm of copyright appear to be rare and S. 1866, in dealing specially with the period of protection, appears to be unique. In support of the bill, Senate Report No. 92-280 of the Committee on the Judiciary (adopted in substance in House Report No. 92-604 of the Committee on the Judiciary) cites only nine private copyright bills which Congress has enacted (three of which apparently deal with different editions of the same work), all in the period 1828-1898. We are informed that all of those bills relate to technical defects or a failure of timely registration and the like, none going to the basic policy of the Copyright Act with respect to the length of time a work is to be protected.

The purpose of giving special protection to Science and Health is set forth in the committee reports cited above. Adherents of the Christian Science religion look to that book "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 a central part of this religion." Likewise, the Bible and Science and Health are regarded "as the only Pastor of this Church", so that weekly sermons "are comprised of readings of scriptual texts and correlative passages from 'Science and Health'." The sermon for each week is uniformly read throughout the world in every Church of Christ, Scientist, the citations having been publicized in advance through the Christian Science Quarterly. Church members "are reliant upon the integrity and purity of the exact statement of Christian Science as set forth in 'Science and Health with Key to the Scriptures', and upon the uniform system of pagination and line numbering which it employes, in order effectively to study and practice Christian Science, and to participate in the religious services and exercises of the Church of Christ, Scientist. . . . Unless the book meets these [two] requirement [*i.e.*, authenticity in containing the exact words of Mary Baker Eddy and uniformity of pagination, etc.] it cannot serve its purpose as the denominational textbook of Christian Science."

On the floor of the Senate, Senator Burdick, one of the sponsors of S. 1866, expressed his concern that, if the book fell into the public domain, "Amended editions, annotated versions, modernized editions, and abridged editions could all be published and would cause great distress and confusion, not only among Christian Scientists, but among those of the general public wishing to obtain a correct and complete statement of the teachings of this religion." He also argued that the bill "would create no restraint upon free expression of religious ideas [but] would only limit those who would seek to express the ideas of Mary Baker Eddy in her words."

Senator Burdick concluded his remarks, as follows:

"Mr. 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 an American religion and since the book is bringing personal profits to no one, I urge its passage. At the same time I wish to point out most emphatically that the committee considers this bill an exception to its general policy of opposition to private patent and copyright bills, especially those providing for a longer term." (Cong. Rec. S. 11899-900, July 22, 1971.)

According to an article in the New York Times of November 25, 1971, quoting Dr. J. Buroughs Stokes, manager of the committee on publication for the church of Boston, absent copyright protection of the 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, according to church leaders, annual royalties on the book amount to about $200,000 and are used for church purposes.

Whatever the validity of the arguments advanced for passage of S. 1866—and it seems to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, by use of an authorized edition without the aid of copyright registration—we believe that those very arguments point up the unconstitutionality of the bill. While mindful of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment, we confess ourselves unable to perceive how S. 1866 can be other than unconstitutional. Its purpose and its ultimate effect are to single out a particular doctrine within a particular church, to grant to writings embodying that doctrine protection that has never been made available to any other religious or non-religious writings, and to supply civil and criminal sanctions against those who, religiously or non-religiously, whether calling themselves Christian Scientists or not, may choose to deviate from that doctrine. Indeed, our research, though necessarily abbreviated because of time limitations, has failed to disclose any constitutional decisions involving similar statutes—an indication, if unconstitutionality can be regarded as quantitative, of how "extremely unconstitutional" S. 1866 is. However, we may still be guided by the words of the Supreme Court in First Amendment religious cases, which follow:

Everson v. *Board of Education*, 330 U.S. 1, 15-16 (1946), upholding New Jersey's school bus law for church-related school: "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 groups."

Burstyn v. *Wilson*, 343 U.S. 495, 505 (1952), invalidating New York's ban on "sacrilegious" films: "It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine. . . ."

Fowler v. *Rhode Island*, 345 U.S. 67, 70 (1953), invalidating the application to a meeting of Jehovah's Witnesses of a municipal ordinance forbidding addresses to religious meetings in public parks: "Nor is it in the competence of courts, under our constitutional scheme to approve, disapprove, classify, regulate, or in any manner control sermons delivered at religious meetings. Sermons are as much a part of a religious service as prayers."

Epperson v. *Arkansas*, 393 U.S. 97, 103-4 (1968), invalidating Arkansas' anti-evolution statute: "Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine and practice . . . it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite."

Walz v. *Tax Commission*, 397 U.S. 664, 673 (1970), upholding New York's real property tax exemption for churches: "[New York] has not singled out one particular church or religious group or even churches as such; rather it has granted exemption to all houses of religious worship within a broad class of property owned by nonprofit, quasi-public corporations . . ."

Lemon v. *Kurtzman*, — U.S. —, 29 L. Ed 745, 755 (1971), invalidating certain state aid to religious-related schools: "Three such tests [of constitutionality] may be gleaned 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 . . . ; 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. *F.C.C.*, 403 F. 2d 169, 171–2 (D.C. Cir. 1968), cert. denied, 394 U.S. 930 (1969), Circuit Judge (now Mr. Chief Justice) Burger, in upholding the renewal by the F.C.C. of a radio station license, quoted with approval the remarks of Commissioner Loevinger: "For the FCC to promulgate rules regarding permissible and impermissible speech relating to religion would be . . . an unconstitutional infraction of the free exercise clause and the establishment clause of the First Amendment. . . . [Religious] subjects will and must be discussed. But they can not be freely discussed if there is to be an official ban on the utterance of falsehood."

Swan 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 Main Street," popularizing the teachings of Mary Baker Eddy, sued the Christian Science Church, alleging a conspiracy to suppress and discredit his book. In upholding the granting 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 defendant in this respect is comparable to the absolute right of any religious order to select its own ministers, advocates, authors and sacred writings." (p. 751).

Applying the judicials opinions quoted above to S. 1866, we note that its enactment would constitute open participation in the affairs of a religious organization (*Everson*), could bring government into the business of suppressing (through copyright infringement proceedings) attacks upon a particular religious doctrine (*Burstyn*), would cause Congress to control religious sermons (*Fowler*), would possibly promote one religious theory against another (*Epperson*), and would, unlike general copyright legislation, single out one particular religious group (Walz). Moreover, S. 1866 would fail at least the first two and possibly all three tests of *Lemon* v. *Kurtzman* (secular legislative purpose; primary effect neither advances nor inhibits religion; does not foster excessive government entanglement), any one such failure resulting in unconstitutionality. S. 1866 would also result in an official ban on "falsehood" (*Anti-Defamation League, etc.*), at least as defined by the presently constituted Christian Science church. Finally and ironically, S. 1866 would deprive Christian Science dissidents, of the right accorded the church against such a dissident in *Swan*, to select their own "sacred writings" if those writings happened to be those of Mary Baker Eddy.

We note that the reimposition, as well as the initial granting, of copyright privileges to works long in the public domain by an author long dead, and for extended periods (172 years in the case of the earliest publication), particularly in a specific instance rather than by general law applicable to all authors, may well exceed the constitutional grant of power to Congress by Article I, Section 8 to secure "for limited times to authors . . . the exclusive right to their . . . writings" and, additionally, may violate the freedom of press and speech guaranteed by the First Amendment. However, we are content, at this time, to limit our opposition to S. 1866 to its attempted establishment of religion and prevenion of the free exercise of religion by others.

ADDITIONAL CONSIDERATIONS

If it is the belief of the sponsors and proponents of this legislation that it could fall within the constitutional limitations of the First Amendment, we believe that they should have an opportunity to establish this position. A delay in action on the bill should in no way prejudice their interests, since the general copyright extension bill extends the copyright on the 1906 edition through December 31, 1972 and this is the only edition presently under copyright. The Committee on Copyright and Literary Property of this Association, which has joined with the Committee on Civil Rights in opposing the enactment of S. 1866, has invited the General Counsel of the First Church of Christ Scientist, Boston, Massachusetts, to meet with that Committee on December 15, 1971 to explain his views on the constitutional issues raised by the bill.

In view of all of the foregoing, it is respectfully submitted that this legislation should not be enacted.

COMMITTEE ON CIVIL RIGHTS,
ROBERT M. KAUFMAN, *Chairman*.

Charles R. Bergoffen, Michael Cardozo, Jack David, Stephen J. Friedman, Murray A. Gordon, Alan U. Schwartz, Paul L. Trachtenberg, Raymond S. Calamaro, Simeon Golar, William S. Greenwalt, Eric L. Hirschhorn, (Mrs.) Maris L. Marcus, Donald S. Shack, Hon. Donald J. Sullivan, Eastman Birkett, John R. Fernback, Alfred J. Law, John J. Kirby, Jr., Mrs. Susan F. Teich, Milton L. Williams.

Mr. JAVITS. Mr. President, the report of the civil rights committee of the New York City Bar Association does raise some fundamental questions concerning possible conflict between S. 1866 and the first amendment provisions concerning religion. In adidtion, the copyright committee of the association opposes the bill because, in their judgment, it violates the basic principle which they feel should govern the granting of copyrights. I note also that when this bill was before the Senate last July, the Senator from Michigan (Mr. HART) raised similar questions.

In my opinion the arguments raised against S. 1866 present some serious questions. Clearly, by granting a special 75-year copyright on all editions of "Science and Health" heretofore published by Mary Baker Eddy or the trustees of her estate, this bill does give special aid to a specific religion—Christian Science—which has never been given to any person or organization, religious or nonreligious, in this century. As a result of this bill the church will be able to continue to receive all proceeds—now about $200,000 per year—from the sale of Mrs. Eddy's book. Furthermore, the bill may, to some extent, inhibit the formation of dissident groups within the Christian Science Church or could 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."

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 world study the same passages at the same time. The purity of the text, and its proper pagination and lineation, 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 to me about the possibility of 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 and letters 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 particular church and grant to writings embodying that doctrine a protection that has never been made available to any other religious or nonreligious writing, and to apply civil sanctions against those who, religiously or nonreligiously—whether calling themselves Christian Scientists or not—may choose to deviate from that doctrine.

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 Swan . . .

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 constitutionality, and constitutionality is always a matter submitted to the Senate. So I felt we should hear the arguments and then decide 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 which so many wonderful people believe in so very deeply, except the constitutional issue which relates to taking out of the public domain, which this bill does, a great body of religious literature and putting it into a private document in a copyright.

I should imagine that the Catholic Church would be very happy to have a copyright on the New Testament; and I know the Jewish faith would like to have a copyright on the Old Testament.

Mr. President, I have one last observa-

tion. There is a question which a copyright raises of a monopoly and accessibility of this great religious book to everyone. On that, and I am persuaded by the church, I do not think there is much question about the fact that its constant unvariable practice has been for very broad accessibility to the book, and that it will so continue. In order to certify that that is the case, I have a letter from Mrs. Leonore D. Hanks, chairman of the trustees under the will of Mary Baker Eddy. The Senator from North Dakota will confirm that she constitutes the highest authority in the church. In the letter she states as follows:

The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaign are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. Science and Health is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as $1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.

The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this book in these of the nature of the conveyance of rights by the author to the Church she founded.

Mr. President, I am persuaded that this is a complete commitment to the public domain with regard to accessibility.

In view of the apparent fact this has not struck any fire or aroused great interest elsewhere, except among those who practice the religion, and in view of the finding of unconstitutionality by the bar association, to which I have referred, and I respect it so highly I am going to vote "no." However, I felt there was no proper substantive reason for me to delay the matter further, after giving the bar association a full opportunity to look at the matter.

Asssuming the bill is passed and the President signs it, it still must run the gauntlet of legal challenges from anyone who wishes to challenge it.

Those are the circumstances in which I leave the matter. I ask unanimous consent to have printed in the RECORD the letter from Mrs. Lenore D. Hanks and other correspondence from the association of the bar of the city of New York.

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

CHRISTIAN SCIENCE CENTER,
Boston, Mass., December 6, 1971.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: As chairman of the Trustees under the Will of Mary Baker Eddy and speaking for all the Trustees, I am glad to assure you that for decades the policy of our Church toward *Science and Health with Key to the Scriptures* has been one of trusteeship and service rather than financial gain. This policy will remain unchanged and unaffected by the passage of S1866.

The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaigns are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. *Science and Health* is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as $1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.

The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this books in these terms—indeed, must see the book in these terms—because of the nature of the conveyance of rights by the author to the Church she founded.

The purpose of our Church is service, and this remains the overriding concern of our entire organization.

Sincerely yours,
MRS. LENORE D. HANKS,
Chairman.

Hon. JACOB K. JAVITS,
U.S. Senator,
Washington, D.C.:

On behalf of the Committee on Civil Rights of the Association of the Bar of the City of New York, I strongly urge that no action be taken by the Senate on S. 1866 "for the relief of Clayton Bion Craig et al." Which raises serious constitutional problems relating to the constitutional provisions prohibiting the establishment of religion, as well as other constitutional provisions.

The Committee on Civil Rights, as well as the Committee on Copyright Law of this association, is studying this problem and plans to report thereon as soon as possible.

The postponement of action on this bill should not prejudice the parties concerned in view of the blanket copyright extension legislation recently passed.

ROBERT M. KAUFMAN,
Chairman, Committee on Civil Rights, the Association of the Bar of the City of New York.

NEW YORK, N.Y.

Senator JACOB JAVITS,
Old Senate Office Building,
Washington, D.C.:

The following telegram was sent yesterday to all members of the House Judiciary Committee: "At its meeting last night the Committee on Copyright and Literary Property of the Association of the Bar of the City of New York unanimously disapproved that portion of S. 1866 which purports to restore to copyright protection editions of science and health which have long been in the public domain. The bill would create for the first edition of that work a copyright term in excess of 170 years. We believe that such action exceeds the congressional power under article 1, section 8, of the Constitution and would represent unsound copyright policy. We urge you to object to the passage of private bill S. 1866".

CARLETON G. ELDRIDGE, JR.,
Chairman.

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 depth by the House committee. Now, it comes back with this very minor amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary on the constitutionality of the bill, together with the authorities therefor.

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

PRIVATE 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 for specific works. A list of these Acts is attached. Although these private Acts do not appear to have been tested in the courts, statutes involving private Patent Acts arising under the same provision of the Constitution have been tested in the courts. A list of these cases is attached. 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 Position Finding 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.

The cases listed support the proposition that the power granted to the Congress under Article I Section 8, is not limited to the enactment of "general" patent or copyright statutes, but may be exercised in respect of specific inventions or to protect the invention of a specific inventor. By the same token, it would include the enactment of a statute to secure exclusive rights in a specific "writing" created by a specific author.

B. Establishment of Religion. Copyright protection for religious works does not constitute the establishment of religion. If it did, then the present copyrights laws of the United States would be unconstitutional. The extension and grant of copyright under S. 1866 creates no right of a kind which has not heretofore existed under the general 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 Religious. Copyright protection for *Science and Health with Key to the Scriptures* is an important element in the free exercise of religion for adherents of Christian Science and 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 *Science and Health,* and for avoiding confusion to the public which in buying or borrowing the work from bookstores and libraries would not know whether the copies offered are the correct and complete text authorized by Mary Baker Eddy. If such variant texts were issued, either intentionally or as the result of carelessness, the correlation between *Science and Health* and the Lesson-Sermon in the *Christian Science Quarterly* would be destroyed. This correlation between the Lesson-Sermons and the au-

thentic text is an important element to be protected by copyright, and it is this correlation which enables the textbook to function effectively as the Pastor of the Christian Science religion.

D. Freedom of Expression. There is no monopoly over expression and copyrights do not limit what may be said freely in public. A copyright simply prevents "copying or reproduction of a work" and does not prohibit the use of ideas or what may be said about a copyrighted work. Nor does it prevent textual or historical criticisms. Under the doctrine of fair use, not only may writers engage in comment and criticism, either favorably or adversely, but they are even permitted to quote portions of a work for this purpose.

E. Limitation of Duration. The term of copyright under S. 1866 is for a fixed period of time and is patterned on the 75-year provisions for institutional works under the proposed general copyright revision bill (See S. 644, 92d Congress, Section 302(c)). Thus, it complies with the Constitutional requirements of copyrights "for limited Times."

F. Rights of Trustees. Congress has the power to grant copyright protection to trustees of an estate and such protection has been extended for many years. Section 9 of the Copyright Act reads: "The author *or proprietor* of any work made a subject of copyright by this title *or his executors, administrators or assigns* shall have copyright for such work * * *" The trustees of an estate can be proprietors of a copyright and are the assigns of the author's executor.

G. Science and Useful Arts. Congress is granted power to create copyrights "to promote the Progress of Science and useful Arts," but this language does not limit the subject matter of works which may be copyrighted. If religion is not a useful art, then no religious works could enjoy copyright protection, since the copyrights would not promote the progress of the useful arts. Clearly, under our system of copyrights, protection is afforded to religious works as useful arts. Section 5(c) of the present 1909 law specifically provides for copyright registration of sermons even though not reproduced in copies for sale.

CASES ON CONSTITUTIONALITY OF PRIVATE EXTENSION BILLS

Radio Position Finding Corp. v. The Bendix Corp., 205 F. Supp. 850 (D. Md. 1962), aff'd per curiam 371 U.S. 577, 83 S. Ct. 548 (1963).

Evans v. Jordan, 9 Cr. 199 (1815).

Bloomer v. McQuewan 14 How. 539, 548 (1852).

Bloomer v. Millinger, 1 Wall 340, 350 (1864).

Eunson v. Dodge, 18 Wall. 414, 416 (1873).

Bloomer v. Stolley, 5 McLean 158, Fed. Cas. No. 1559 at p. 731 (1850).

Jordan v. Dobson, 2 Abb. U.S. 398, Fed. Cas. No. 7519 at p. 1095 (1870).

Blanchard's Gun-Stock Turning Factory v. Warner, 1 Blatchf. 258, Fed. Cas. No. 1521 at p. 656 (1846).

Blanchard v. Haynes, 6 West. Law J. 82, Fed. Cas. No. 1512 at p. 628 (1848).

Stephens v. Howells Sales Co., Inc., 16 F. 2d 805 (S.D.N.Y. 1926).

Marx v. United States, 96 F. 2d 204, 37 U.S.P.Q. 380 (9th Cir. 1938).

Edward B. Marks v. Jerry Vogel Music, 42 F. Supp. 859 (S.D.N.Y. 1942).

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 statement 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 in haec verba 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 Congress of the United States ought 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 power 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 easily 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 denominated 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 religions 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 recognized.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. I wish to be recorded as voting "no."

The PRESIDING OFFICER. The Senator is so recorded.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to routine morning business for a period not to extend beyond 10:30 a.m.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

ADDITIONAL PAY FOR PROFESSORS AT MILITARY AND AIR FORCE ACADEMIES

A letter from the Secretary of the Army transmitting proposed legislation to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy (with accompanying papers); to the Committee on Armed Services.

ADDITIONAL POSITIONS IN THE TREASURY

A letter from the Secretary of the Treasury submitting proposed legislation to establish certain positions in the Department of the Treasury and to fix the compensation for these positions, and for other purposes (with accompanying papers); to the Committee on Finance.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States submitting, pursuant to law, two reports, one entitled "Coordinated Consideration Needed of Buy-National Procurement Program Policies"; and the other entitled "Management of Selected Aspects of the Strategic and Critical Stockpile" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE NATIONAL SAFETY COUNCIL

A letter from the president of the National Safety Council, Chicago, Illinois, submitting, pursuant to law, its annual report (with accompanying report); to the Committee on Public Works.

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 a compilation entitled "Majority and Minority Leaders of the Senate" (Rept. No. 92–571);

S. Res. 195. 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 Convention 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:

S. Res. 210. A resolution authorizing the printing of the report of the 1971 White House Conference on Aging as a Senate document (Rept. No. 92–574).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, with amendments:

S. 216. A bill to permit suits to be brought against the United States to adjudicate disputed land titles (Rept. No. 92–575).

By Mr. STENNIS, from the Committee on Armed Services, with amendments:

H.R. 8856. An act to authorize an additional Deputy Secretary of Defense, and for other purposes (Rept. No. 92–576).

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;

Arnold Bauman, 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 southern district of New York; and

Bruce M. Van Sickle, of North Dakota, to be 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. 29. 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 private 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. 2983. 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. 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.

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.

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

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 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.

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 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. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 2990. A bill for the relief of John Panamarioff and others. 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 the 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, was the fact 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, and 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. In 1970 there were 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 $578 in 1952 to $926 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 when 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 up to 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 thereby restore the earnings-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 $195 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 Vietnam. I reintroduce my amendment 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, and medical care 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, therefore, retain the necessary helicopters to continue this facility.

The armed services in Vietnam possess the tools—the construction equipment and the vehicles—to build roads and bridges 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. But 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 1968 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. Of that total, 7,679,500 came from the United States. This was support equipment for an army at roughly a 550,000 troop strength level. Now we expect to have force levels reduced to 139,000 by February 1 of this year, roughly one-fifth of what we had in 1968. Still, we have not reduced our appropriations for military equipment to Vietnam in the same ratio.

A GAO review of the phasedown 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 that the practice of open requisitions by units being redeployed or deactivated be canceled. Together, these steps would reduce sharply unnecessary shipments to Vietnam. There would be more 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 dollars. At the same time, most of this equipment is shipped back with the Army unit leaving Vietnam or to an American installation in the Pacific. According to a newspaper report, the Army's figures show that only approximately 5 percent of its equipment being shipped out of 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 for domestic use of surplus military property in Southeast Asia. In the last year it has distributed at Federal, State, and local levels equipment and supplies valued at roughly $21.6 million. But this figure represents less than 5 percent of the surplus material. A substantially higher portion, 90 percent, is retained by the DOD. What the Installations and Logistics division determines as excess to the DOD's needs is that which is made available to the public. What now qualifies as excess is anywhere in the range of between 5 to 10 percent of surplus military equipment requisitioned for Vietnam. The Vietnam Surplus bill would cover all equipment "no longer necessary for use of armed forces of the United States in Southeast Asia." The 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 surpluses available for strictly military purposes: the heavier hardware like planes, tanks, and artillery. Here, there has been a disturbing loophole in bureaucratic practices which has permitted a thriving international arms trade to flourish. Defense articles declared to be in excess are made available to foreign countries through direct purchasing, grants, and through third parties. This year the Defense Department requested a ceiling for defense articles valued at $220 million, compared to the fiscal year 1971 authorization of $100 million. The ceiling is even higher than the authorization figure, considering the fact that defense articles are presently valued at one-third acquisition costs. That means that the Army can purchase a $9 million plane, the next day register its value at $3 million, and give it to a foreign country at this price. For true accounting purposes this year's ceiling is actually about $660 million.

Once this kind of authorization is passed, there is no congressional determination of where the defense articles wind up. Hence, we may discover that the United States is furnishing countries with military hardware when we should not be as in the case of Pakistan, or Cambodia.

Military assistance programs are designed to be tools of our diplomacy; they are not intended to dictate our diplomacy and that is what may happen if controls are not devised for these programs. Otherwise, we will continue to witness their self-perpetuation. This year, for example, in requesting a $220 million ceiling for excess defense articles, DOD argued that raising the ceiling would mean more effective use of surplus military hardware in Vietnam. In the narrowest terms, that may be true, but the fact that a large surplus is thereby made available for unidentifiable purposes hardly would seem to be effective in the broader context of trying to reduce the arms flow into Southeast Asia.

The bill I am introducing would provide a check on the use of our excess defense articles and would facilitate the disposition of a greater portion of our surplus equipment for domestic purposes. The Office of Southeast Asia War Surplus would have the responsibility for coordinating the entire program. Through the Secretary of Defense, the office would establish procedures for local, State, and Federal agency applications for surplus material and would be charged with the responsibility for a fair and equitable disposition of the property covered by this act.

In the case where the sale of surplus material abroad would be more economically efficient than direct distribution 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 equipment commensurate with our specific development needs. At the same time the purchasing country would also be better off as a result of the transfer and sale of the surplus item.

I cannot imagine anyone's disputing the usefulness of this program. The facts speak for themselves. We should endorse the principle of expanding our surplus programs at home and we should provide the most suitable facility to coordinate the disposition and distribution of this materiel. Mr. President, I urge my colleagues to take this opportunity not just to consider our priorities, but to act as if we knew what they were. Withdrawing from Vietnam involves planning for the future of our Nation, and the legislation I am offering is one step in this direction.

I would like to announce that Senators HOLLINGS, HUGHES, TUNNEY, ANDERSON, JAVITS, MONDALE, MONTOYA, MOSS, RANDOLPH, and CRANSTON are joining with me as cosponsors of the War-to-Peace Surplus Equipment Act of 1971.

I ask unanimous consent that the text 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. 2985

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 "War-to-Peace Surplus Equipment Act of 1971".

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that (1) there is a demonstrated need on the part of Federal, State, and local governments for surplus equipment of the United States in Southeast Asia, (2) such need has also been shown to exist among certain private, nonprofit organizations engaged in urban and rural development programs in the United States or in assistance to low-income persons in the United States, (3) that surplus equipment can be returned to the United States from Southeast Asia at a cost that is only a small fraction of 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.

DISPOSITION OF SURPLUS MILITARY EQUIPMENT IN SOUTHEAST ASIA

SEC. 3. (a) There is established in the Department of Defense and office known as the Office of Southeast Asia War Surplus (hereinafter referred to as the "Office") which shall be headed by a civilian appointed by the Secretary. The head of such office shall be directly responsible to the Secretary of Defense.

(b) Notwithstanding any other provisions of law, the Secretary of Defense shall, through the Office—

(1) determine the kinds and amount of equipment and materials owned by the Department of Defense in Southeast Asia which are no longer necessary for the use of the Armed Forces of the United States in Southeast Asia;

(2) assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, State or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

(3) serve as a central office for the disposition of all such equipment and materials;

(4) make such equipment and materials available to other departments and agencies of the Federal Government and to State and local governments without charge;

(5) make such equipment and materials available without charge to private nonprofit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Director of the Office of Economic Opportunity, to be engaged in programs of urban or rural development or programs of assistance to low-income persons.

NOTIFICATION TO STATES, LOCAL OFFICIALS, AND INTERESTED PERSONS

SEC. 4. (a) The Secretary of Defense is hereby directed to notify in writing the Governors of the several States, mayors or managers of defined urban places and other interested persons (as determined by him) as to the exact nature of surplus equipment and material available under the provisions of this Act.

(b) The Secretary of Defense shall actively seek the participation of Governors, mayors, or managers of defined urban places in the benefits of the program authorized by this Act.

AUTHORITY OF OFFICE TO SELL SURPLUS EQUIPMENT AND MATERIALS ABROAD

SEC. 5. (a) The Office may authorize the sale abroad for dollars of any equipment or materials of the Department of Defense located in Southeast Asia determined by the Office to be no longer needed by the Armed Forces of the United States if the Office further determines that to sell such equipment or materials abroad and use the proceeds of the sale for the purposes stated in subsection (b) of this section would be economically sounder than to incur the expense of transporting such equipment or materials back to the United States for distribution under this Act. Notwithstanding the foregoing provisions of this section, no sale may be made abroad under this section if such sale would be inconsistent with the Foreign Military Sales Act.

(b) 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. Funds deposited in such account shall be available only for carrying out programs for urban or rural development in the United States, programs provided for under the Economic Opportunity Act of 1964, and similar-type programs. Funds shall be appropriated from such account for such programs from time to time in appropriation Acts.

REGULATIONS

SEC. 6. The Secretary of Defense shall, through the Office, prescribe by regulation the procedures for making application for equipment and materials made available under this Act and for the fair and equitable disposition of such property to eligible applicants.

SEC. 7. The Secretary of Defense shall require any State or local government or any private, nonprofit organization receiving equipment or materials to the United States or to pay 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.

REPORT TO CONGRESS

SEC. 8. The Secretary of Defense shall submit a written report to the Congress within ninety days after the date of 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 guarantee the American public full access to 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 curtail legitimate lobbying activities, but, rather, to require full disclosure of such activities.

This measure very carefully preserves the constitutional rights of the public to freedom of expression and the 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 and other activities of persons, who for pay, 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.

I was a member of that House Committee until my recent appointment to the Senate, and I participated in the hearings and deliberations of that committee in the other body of this Congress.

The House bill is a good one and is a big step in the right direction, but I think it contains some weak spots that are a natural result of the compromises that take place in the committee deliberation process.

My proposal is more demanding of disclosure. I think legislation in this field should be as tough as possible, because I have become increasingly concerned by what 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 penalty clauses.

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

The names of lobbyists and of their clients.

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. GOLDWATER, and Mr. FANNIN):

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 SAMUEL S. STRATTON, who is a member of the board of the college, and Representative OGDEN R. REID as cosponsors.

Mr. President, the bill will provide legislation authorizing the Secretary of the Treasury to make a grant 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 collectors.

In 1963 the late President Eisenhower agreed to the establishment of Eisenhower College as a living, permanent memorial to his years of service to the Nation in war and in peace. In subsequent years, the Eisenhower family—Mrs. Mamie Eisenhower, Dr. Milton Eisenhower, and John Eisenhower—have actively supported the establishment of the school, its development, and the 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

90–563 providing $5 million for the Eisenhower College on a matching basis. This amount has been matched by foundation, corporate, and individual gifts and pledges. The $20 million anticipated from the bill I am now introducing for the sale of "proof" Eisenhower silver dollar coins would supplement the $5 million appropriated in 1968. Some $46 million in Federal funds has been expended on construction, bonds, and land acquisition for the Kennedy Center.

The Bank Holding Company Act Amendments of 1970, Public Law 91–607, authorizes the minting of Eisenhower silver dollars. Twenty million "proof" coins are being sold to the public—coin collectors and collectors of Eisenhower memorabilia—at $10 each. One dollar of this $10 would go as the Secretary of the Treasury may direct, to the Eisenhower College up to a maximum amount of $20 million.

In addition to the "proof" Eisenhower silver dollar coins being sold for $10 each, the Treasury is also selling 130 million "uncirculated" Eisenhower silver dollar coins, each in a plastic case, for $3 apiece. The $390 million proceeds from this sale would not be affected by my bill, the entire amount going to the Treasury.

Eisenhower College is a living memorial to a great American who led the people of his Nation in war and in peace. A former college president himself, President Eisenhower saw Eisenhower College, an institution of higher learning, as a proper memorial. At the groundbreaking ceremony in September of 1965, he said:

> This is an honor that will be prized by me every day of my life, for I can think of no greater monument to any man than a college bearing his name; an institution which will be a vital, vigorous champion of freedom through proper education.

This bill would help translate the will into the deed, the dream into reality.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement from Mrs. Dwight D. Eisenhower, and one from Dr. Milton Eisenhower.

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

A STATEMENT FROM MRS. DWIGHT D. EISENHOWER

No one can, I think, fully understand what Eisenhower College means to me. It has already proven to be a college of character and distinction, qualities which my husband hoped for as he watched its start and early growth.

It made me happy that he felt so honored to have it carry his name. He admired everything about it, the courage of its founders, the generosity of thousands across the country who joined in financing its start.

Now, I am his and my own witness to the the truly wonderful progress of the College. I feel very much a part of it, indeed honored, too, in having the Academic Hall named for me. I want to do everything I can to help it serve those students who, in years to come, will follow the charming and able young people I have talked to on campus.

As I see it, and as his friends have said, this is not only a memorial, it is an institution of great importance to this country. The funds to complete it will constitute an investment which will produce each year graduates who will take a responsible position in society. I don't think we can ask for more.

With enthusiasm and very deep gratitude, I welcome any effort which will assure and hasten the completion of Eisenhower College.

MAMIE DOUD EISENHOWER.

DECEMBER 8, 1971.

STATEMENT OF DR. MILTON EISENHOWER

My brother first told me of a proposal that a College be named Eisenhower in 1962. When he discussed the matter with me, I told him that I admired the idea as much as he did. When he gave his approval, however, I could not help wondering how the College would be developed.

If I had reason for concern in those early days, I soon found good reasons to have confidence in the deliberate and meaningful ways in which the Trustees and Administrators approached their challenging mission.

As I hoped, there was appointed an able faculty of dedicated teachers; there was created a distinctive curriculum which one day will be evaluated as distinguished, and a spacious campus was designed on which more than half the buildings are completed. Most important, there has been attracted to Eisenhower College a body of students who are motivated toward service and achievement and who are proud of their association with the College.

In short, I am greatly impressed with what has been accomplished, as is Mrs. Dwight Eisenhower. I know President Eisenhower would be proud of the College and happy with his decision to have it named Eisenhower. Too, he would be grateful that large numbers of his friends have helped, through their gifts and service, in giving the institution vitality and its leaders hope and confidence. I believe all of them, as I do, would give warm approval to the legislation Senator Javits is now presenting to the Senate.

MILTON S. EISENHOWER.

DECEMBER 8, 1971.

Mr. GOLDWATER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GOLDWATER. I would deem it a real honor if the Senator would add my name as a cosponsor of his bill.

Mr. JAVITS. I would be delighted to do that and, Mr. President, I ask unanimous consent that the name of the Senator from Arizona be added as a cosponsor of this bill.

Mr. FANNIN. Will the Senator from New York add my name also?

Mr. JAVITS. Also the distinguished Senator from Arizona (Mr. FANNIN) as well.

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

Mr. GOLDWATER. I am complimented that I have been invited to address the student body at Eisenhower College and I shall do so at the earliest opportunity.

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

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

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 dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Treasury is authorized to make grants to Eisenhower College, Seneca Falls, New York, in an aggregate amount equal to 10 per centum of the amounts received by the Secretary for the issuance of proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower, and minted under the authority of section 101 (d) of the Coinage Act of 1965, 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 legislation which would authorize the appropriation of $250,000 to the Secretary of Commerce to assist in financing the Arctic Winter Games to be held in Alaska in 1974.

Inaugurated in 1970, the games are international in scope, with the Northwest and Yukon Territories and the State of Alaska acting as joint sponsors. Contestants participate in such sports as badminton, basketball, boxing, curling, figure skating, hockey, shooting, cross-country skiing, table tennis, and volleyball. In the past, several hundred athletes from Alaska and Canada have been attracted to the games, which have been enjoyed by many thousands of American and Canadian spectators.

At present, approximately two-thirds of the funding for this event comes from the Canadian Federal Government. The balance is provided by the Northwest and Yukon Territories, the State of Alaska, the host city, and through the cash donations of various companies and individuals. Regrettably, the United States has never appropriated moneys for this worthy purpose.

I believe that our failure to do so is a great mistake. Not only do the games foster a spirit of healthy competition between the athletes involved, they also lead to increased fellowship among the participants and spectators, greater understanding between the United States and Canada, and increased economic activity in the area in which they take place. For these reasons, I believe that the games are worthy of Federal funding and request that this body give very careful consideration to the bill which I am introducing today.

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

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to the Secretary of Commerce the sum of $250,000, for the purpose of assisting the financing of the

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 persons or organizations to which such funds are disbursed as the Secretary considers necessary to protect the interests of the United States and 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, 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. 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 Employees Compensation Act—5 U.S.C.A. 751, and the following. If a private citizen falls victim to the negligence of an employee of the United States, that citizen is entitled to recover the complete measure 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 a fellow 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—33 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 1948, 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 did not have the right to sue simply because he was a serviceman. The Court held that the automobile accident had nothing to do with the serviceman's military career, but that if it had, that would be a "different case." *Brooks* v. *U.S.*, 337 U.S. 49, 52 (1948).

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 damage. The Supreme Court said that the Government was not liable for injuries to servicemen when the injuries arise out of or in the course of activity incident to services. *Feres* v. *U.S.*, 340 U.S. 135, 146 (1950).

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 military medical staffs. These servicemen have been denied recovery simply because they were servicemen. See *Norris* v. *U.S.*, 137 F. Supp. 11 (1955), *Weiserbs* 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 (1957), *Van Sickel* v. *U.S.*, 285 F. 2d 87 (1960). Usually these cases mention the statutory relief available to servicemen injured in service-connected activity as mitigating the harshness of denying recovery in a legal action. A good summary of this relief can be found in *Jefferson* v. *U.S.*, 77 F. Supp. 706, 711 n. 1 (1948). However, even where no redress other than a legal action is available, courts have denied recovery, basing their decision on the Feres case, and saying that the injured serviceman must go to Congress for relief. *Healy* v. *U.S.*, 192 F. Supp. 325 (1961), and *Knoch* v. *U.S.*, 316 F. 2d 532 (1963). In an attempt to persuade courts to carve out an exception to Feres where the injury involved malpractice, servicemen have argued that while in military hospitals they are not really in a "command function."

They have been met, however, with the argument that according to Army regulations, AR–2, section II, paragraphs 3 and 4a, they are in a "command function," and therefore recovery must be denied. *Bailey* v. *Vanbuskirk*, 345 F. 2d 298 (1965), *Bailey* v. *Dequevedo*, 241 F. Supp. 335 (1965), affirmed at 375 F. 2d 72 (1967), *Schwager* v. *U.S.*, 326 F. Supp. 1081 (1971), and *Shults* v. *U.S.*, 421 F. 2d. 170 (1969). Some servicemen have even sued the military doctor personally, only to be thrown out of court on the ground that the Federal Government's immunity extends to the doctor. See Vanbuskirk, and Dequevedo, supra. It should be noted that once servicemen are discharged and become veterans, they can sue the Federal Government for negligence in veterans hospitals so long as the negligence occurred after their discharge. *U.S.* v. *Brown*, 348 U.S. 110 (1954). Allowing veterans but not servicemen to sue has been called "unjustifiable discrimination." See dissent of Justices Black, Reed, and Minton, *U.S.* v. *Brown*, 348 U.S. 110 at 114 (1954).

The main reasons courts give for not allowing servicemen to recover usually are that military morale and discipline would be undermined, and the "floodgates of litigation" would be opened. See Jefferson, and Healy, supra. But courts never discuss precisely how military discipline would be undermined if a serviceman lying in a hospital bed or on an operating table is given the right to sue for negligent acts committed against him. Some would argue that such suits would be detrimental to health care in military hospitals, although they would concede that litigation would probably correct certain deficiencies in medical procedures, thereby improving to that extent the quality of medical care.

On the contrary, malpractice suits would improve military medical care by making medical personnel more careful and by impressing upon them their high responsibility for the care of their patients. Nor do I hear an inundation of the courts unless malpractice is rampant in military hospitals.

Mr. President, I introduce for appropriate reference a bill designed to close this loophole in Federal law, and ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

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

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

Be it enacted by the 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."

SEC. 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

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.

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 in the community. 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 1963. 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 and the Guam National Seashore. I think it proper that the Congress preserve and protect historic sites having value in commemorating the Pacific phase of World War II, with specific emphasis on the Battle 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 rich in natural scenic values, along with sites and antiquities associated with nearly 4 centuries of European global discovery, exploration and settlement.

As I indicated, these bills were prepared by experts in the Department of the 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. When hearings are held on these measures, the appropriate representatives of Guam will be afforded an opportunity to make recommendations and suggestions that they feel would be desirable to protect private property owners within the boundaries of the two projects.

Mr. President, I ask unanimous consent that the response to my request contained in the letter of October 27 from the Legislative Counsel 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.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 27, 1971.

Hon. QUENTIN N. BURDICK,
Chairman, Subcommittee 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 two draft bills. One draft is 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 of the Interior to establish and administer the park 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 another Federal agency.

Section 3 provides specific authority to the Secretary in regard to landscaping, erection of markers, construction of museums and other appropriate buildings.

As provided in section 4, the War in the Pacific National Historical Park shall be established by publication of a notice to that effect in the *Federal Register* at such time as the Secreary determines sufficient lands have been acquired to constitute an administrable unit. The area is to be adminstered 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 (49 Stat. 666; 16 U.S.C. 461 *et seq.*)

Section 5 authorizes the Secretary to cooperate with the appropriate interested officials in order to insure coordination of historical activities, and the last secton 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 as H.R. 1726, 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 the section. Establishment would be by publication of a notice to that effect in the *Federal Register* at such time as he deems sufficient lands have been acquired to constitute an administrable unit. The Secretary is also authorized to revise the boundaries from time to time by publication of a map or other boundary description in the *Federay Register*, but the total area of the seashore may not exceed 19,000 acres. A copy of the map referred to is enclosed.

Within the boundaries, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or by transfer from another Federal agency.

Section 2(b), 2(c), and 2(d) relate to the acquisition of improved residential property. Pursuant to these sections an owner of improved residential property, as defined in section 2(c), may, at the time of acquisition reserve a right of use and occupancy for noncommercial residential 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 Umatac and Merizo. In essence, the section prohibits condemnation of lands within those villages for a period of one year after enactment, in order to permit the formulation of land use regulations providing for development and expansion, compatible with the seashore, of the villages and addtional, agricultural, area. Upon adoption of a land use regulation satisfactory to the Secretary, he may designate such areas as "private use zones" and, as long as property is utilized in accordance with a satisfactory land use regulation, the Secretary's condemnation authority would be suspended in the private use zones.

Section 3 of the draft seashore bill provides for the continuation of hunting and fishing in accordance with applicable laws of the Territory and the United States, except that the Secretary may designate times when, and zones where, no hunting or fishing may be permitted for reasons of public safety, administration, or fish and wildlife management.

The seashore shall be administered in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) as amended and supplemented, except that any other statutory authority for the conservation of natural or historical resources may be utilized.

The final section authorizes the appropriation of such sums as may be necessary to carry out the purposes of the Act.

These bills have been prepared as a service to you. Since they have not been cleared by the Office of Management and Budget, you will appreciate, I am sure, that we can make no commitment at this time with respect to this Department's position on the bills.

Sincerely yours,

FRANK A. BRACKEN,
Legislative Counsel.

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

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 War in the Pacific National Historical Park (hereinafter referred to as the "park") on the island of Guam, to stand as a reminder of the truths forged in armed combat which have proved the need, and heightened the desire, for world peace, to commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater in World War II, including the Guam campaign, and to interpret this significant period in the history of our Nation.

SEC. 2. The Secretary is authorized to acquire not to exceed 2,800 acres of lands and interests in lands for the purpose of the park by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. Property owned by the Territory of Guam may be acquired only with the consent of the owner. Notwithstanding any other provision of law any Federal property may, with the concurrence of the agency jurisdiction thereover, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the park. Lands acquired for the park shall include, but not necessarily be limited to, that area of Guam comprising the initial major landing area of July 21, 1944, by the invading forces of the United States on Asian beachhead, the mountain and plateau areas adjacent to said landing area, and any other pertinent areas on the island selected after consultation with the Governor of Guam.

SEC. 3. To facilitate the commemoration and interpretation of the historic role of Guam and of the War in the Pacific, the Secretary is authorized to landscape, erect markers, construct a museum and other appropriate buildings, provide exhibits and interpretive material, and otherwise appropriately develop the Park.

SEC. 4. The Secretary shall establish the "War in the Pacific National Historical Park" by publication of a notice to that effect in the Federal Register at such time as he deems that sufficient lands have been acquired to constitute an administrable unit. Pending establishment and thereafter, lands and interests therein acquired for the Park shall be administered in accordance with the provisions of 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 (49 Stat. 666; 16 U.S.C. 461 et seq.).

SEC. 5. In order to assure coordinated historical development and preservation, the Secretary is authorized to cooperate and consult with the Governor of Guam, military and naval historians, the American Battle Monuments Commission and other affected United States agencies of the Government.

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

S. 2992

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 in order to preserve for public use and enjoyment certain areas possessing outstanding natural, historic, and recreational values, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the Guam National Seashore (hereinafter referred to as the "seashore"). The seashore shall consist of those lands and waters as generally depicted on the drawing entitled "Boundary Map, Proposed Guam National Seashore," numbered NS–GUA 7101–A, and dated June 1967, a copy of which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall establish the seashore by publication of a notice to that effect in the Federal Register at such time as he deems that sufficient lands have been acquired to constitute an administrable unit. The Secretary may revise the boundaries from time to time by publication of a map or other boundary description in the Federal Register, but the total acreage of the seashore may not exceed 19,000 acres.

SEC. 2(a). Within the boundaries of the seashore, the Secretary may acquire lands, waters and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Property owned by the Territory of Guam may be acquired only with the consent of the owner. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having jurisdiction thereover, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the seashore.

(b) With respect to improved residential property acquired for the purposes of this Act, which is beneficially owned by a natural person and which the Secretary determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the seashore, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

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

(d) The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e)(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all property located within the villages of Umatac and Merizo, for a period of one year from the date of enactment of this Act. Thereafter, the Secretary may designate by publication of a notice to that effect in the *Federal Register*, after consultation with the Governor of Guam and other appropriate officials, the said villages, together with lands adjacent thereto necessary for expansion, and such other areas as the Secretary may deem proper, as private use and development zones: *Provided*, That the Secretary shall not designate any such zone unless a satisfactory land use regulation, as hereinafter set forth, is applicable thereto.

(2) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all property within private use and development zones at all times when there is in force and applicable to the lands within such zones valid land use regulations promulgated by the Territory of Guam, and approved by the Secretary. The Secretary's approval shall be evidenced by publication of approved land use regulations in the *Federal Register* by him.

(3) No land use regulation or amendment thereto shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such land use regulation.

(4) If any property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the approval, in accordance with the foregoing provisions of this section, of a land use regulation applicable to such property,

(a) is made the subject of a variance under or an exception to such land use regulation, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any approved land use regulations, or

(b) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such land use regulations, which fails to conform or is in any manner opposed to or inconsistent with the land use regulation,

The Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however*, That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

SEC. 3. The Secretary shall permit hunting, and fishing, on lands and waters under his jursdiction within the boundaries of the seashore in accordance with the applicable laws of Guam and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

SEC. 4. Pending establishment and thereafter, lands and interests in lands acquired for the seashore shall be administered in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), 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.

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

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2349

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2349, the Voting Rights Amendments of 1971.

S. 2515

At the request of Mr. WILLIAMS, the Senator from Ohio (Mr. TAFT) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 2515, the Equal Employment Opportunities Enforcement Act of 1971.

S. 2709

At the request of Mr. HATFIELD, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2709, a bill to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

S. 2734

At the request of Mr. SCHWEIKER, the Senator from Kentucky (Mr. COOK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), and the Senator from Utah (Mr. MOSS) were added as cosponsors of S. 2734, a bill to amend the Fair Packaging and Labeling Act to provide for the establishment of national standards for nutritional labeling of food commodities.

S. 2738

At the request of Mr. HUGHES, the Senator from Delaware (Mr. BOGGS), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Michigan (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Alaska (Mr. STEVENS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2738, a bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria.

S. 2829

At the request of Mr. BAYH, the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2829, a bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes.

S. 2890

At the request of Mr. Moss, the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2890, a bill to authorize the Civil Service Commission to furnish assistance to provide for the emergency transitional employment by State or local governments of Federal employees who lose their positions as the result of reductions in force in areas of high unemployment.

S. 2892

Mr. BOGGS. Mr. President, I ask unanimous consent that the names of the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) be added as cosponsors at the next printing of S. 2892, a bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental im-

pact of mineral exploration in the Atlantic Ocean.

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

Mr. BUCKLEY. Mr. President, I want to say how delighted I am to be a cosponsor of the bill introduced by the distinguished senior Senator from Delaware (Mr. BOGGS) and the distinguished Junior Senator from Delaware (Mr. ROTH). It has been a source of great concern to me that the understandable emotion that has characterized so much of the recent public discussion of the issue 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. I hasten to say that this vigorous public reaction has had the very beneficial effect of focusing the attention of officials at all levels of Government on the potential damage which could result from oil spills along this country's densely populated East Coast. Now that public attention has been captured, what is now urgently required is a thorough, coordinated analysis of all those aspects—economic, environmental, technological—which must be examined with the greatest of care in order to have the best possible factual basis for an ultimate decision on whether or not we may safely proceed with such exploration; and if so, under what conditions.

The legislation at hand is specifically designed to collect and analyze the requisite information, and is to be undertaken by those Federal agencies which are most competent to make the study—the Environmental Protection Agency, the Department of the Interior, and the National Oceanographic and Atmospheric Administration of the Commerce Department. The report which they will produce, when complemented by those investigations currently underway within private citizen and conservation groups, will, I am confident, present a valuable, objective base of information for the decisionmakers.

Mr. President, one of the aspects which this tripartite group is specifically directed to examine is "the probability of any accident associated with such mineral exploitation that could cause an adverse impact on marine exosystems of the territorial seas or shorelines of the United States." We all understand that our current level of technology is not, at this time, sufficiently advanced to assure that exploitation of oil in any offshore province in the world can be conducted with zero risk of spillage.

In passing, it is worth noting that offshore drilling is not the only source of oil pollution. In fact, it probably passes a far smaller risk to the environment of the Atlantic coast than the super tankers which daily bring many huge cargoes to our East Coast refineries. For example, pollution from tankers is calculated to be more than 10 times greater than pollution from offshore drilling. This suggests that there is a great need to develop technologies for safer systems of delivery of all sources of oil, domestic and foreign. Progress is being made in this direction, as is suggested by an article in the May-June 1971 issue of Sea Frontiers, the magazine of the International Oceanographic Foundation, in which the author, Michael Gruber, describes a new industry which has been organized for the invention and production of devices for removing oil from water. Gruber accutely observes:

It often requires a great disaster to thrust into the public consciousness ills 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 unlike other problems that plague our environment, oil pollution is one for which a purely technological solution seems feasible, then we are under a serious 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

(By Michael Gruber)

* * * Bantry Bay class tankers. Should one of these monsters founder on or near an inhabited coast, the public outcry would rattle governments and boardrooms. Catastrophe aside, every time a citizen steps on a piece of "tar" on the beach or sees a patch of iridescence on the water, he knows he is seeing something bad, something with an identifiable source and cause, something that could have been prevented, but was not. Oil pollution is unsubtle.

OIL GETS EATEN

It is therefore ironic that of all the major aquatic pollutants, oil in its natural state is perhaps the least harmful biologically. Petroleum has been seeping naturally from crevices for millions of years, and since it is an organic substance, a host of microorganisms have become adapted to feeding on it. Eventually, oil spilled in the ocean is converted by these organisms into carbon dioxide, water, and other simple substances. A few years after the wreck of the tanker *Tampico* on Mexico's undeveloped west coast (*See* "Tampico," *Sea Frontiers*, Vol. 13, No. 4, July-August, 1967) the small cove that had received the bulk of the spill was completely recovered. Compared to mercury compounds, or chlorinated hydrocarbons, or organophosphates, which invisibly tear apart a whole ecosystem, oil pollution seems positively benign.

But not quite. It is undeniable that oil spills take an inordinate toll of the most desirable and valuable animals: birds, marine mammals, fishes, and shellfishes. The mucky asphaltlike fractions of petroleum, which persist even after burning, can destroy oyster beds, wipe out whole rookeries of birds, or cause heavy kills of fishes and crabs. Then there is the esthetic loss; politically this is no small thing. A photograph of a blackened tourist beach, a strangling otter, can negate millions of dollars of public relations efforts on behalf of the responsible oil company. Public outrage is exacerbated by the not unreasonable notion that the immensely profitable oil industry should have spent more money and effort on preventing such pollution. When the *Torrey Canyon* cracked up, it soon became perfectly clear that no one in the oil industry or its transport associates had adequately prepared for such an event.

A NEW TECHNOLOGY

In the blackened wake of the *Torrey Canyon*, in the aftermath of the Tampa Bay stranding, the *Ocean Eagle* wreck, the blowouts in the Santa Barbara channel and off the Louisiana coast, a new industry has arisen, organized for the invention and production of devices for removing oil from water. Such devices fall into two broad classes, the physical and the chemical, and there are numerous hybrids. The industry is still chaotic and slightly zany, which is characteristic of a new technology dominated by invention, but it draws real strength from the acute need for its services and the ample rewards that await the proprietors of successful systems. Also, unlike the other problems that plague our environment, oil pollution is one for which a purely technological solution seems feasible.

Oil does not blend physically with water under normal conditions, and hence it can be separated by mechanical means. It is lighter than water, as well, and so it is no surprise that the majority of oil cleaning devices are either booms to contain the oil slick or skimmers to remove it from the surface, or combinations of the two.

FENCES IN THE WATER

Booms are simply fences in the water, designed to interdict the shallow layer of sea to which oil is confined. An anti-oil boom must be flexible enough to shape itself to the sea surface, so as not to allow oil to spill over or slip underneath it. It must be sturdy, resistant to corrosion and weather, and light enough to transport easily to the site of the slick. Since oil slicks may be very large, cost per unit length is an important factor.

A flexible boom designed by the Arrowhead Division of Federal-Mogul Corporation, Los Angeles, consists of 100-foot modules erected by an inflatable rubber helix. The modules are carried on a reel at the stern of a work boat and inflated as they roll off into the water. Quick-disconnect couplings join the modules and sections, which are held in place by a weighted chain used to tow and deploy the device. Flexibility is achieved in another way in the Kemper Sea Curtain, which is essentially a plastic sausage of foam with a plastic curtain hanging beneath it. A chain running through a loop at the bottom of the curtain provides both ballast and tension. The system was successfully used to contain part of the Santa Barbara Channel blowout.

PLYWOOD AND OLD CANS

Several boom designs have been constructed of rigid vertical panels connected by flexible joints. Alcoa's Sea Fence has panels made (naturally) of aluminum, connected by a cable and floated with plastic foam. Crudely simple was the boom of this type put up in the immediate aftermath of the *Ocean Eagle* wreck in San Juan harbor. It consisted of 4 x 8-foot marine plywood panels bolted to oil drums. The drums were strung on a wire rope and the gaps between the panels were filled with plasticized canvas, which was also used to make the skirt hanging beneath the panels. Although this boom saw little use at San Juan because of the successful removal of most of the oil from the stricken *Ocean Eagle*, one of the same type was the backbone of the containment effort during the Chevron Oil Company's blowout and spill at Main Pass Block 41, off the Louisiana coast.

In this operation plywood/can booms were used in both the primary barrier around Block 41 (where it replaced lighter booms that failed to stand up to weather and wave) and to corral drifting oil slicks. The weight and deep draft of this boom makes it easy to tow and well adapted for corralling. Also it is cheaply and easily constructed from materials available in any coastal town.

Rigid booms, however, have important drawbacks. Even a weak current moving at right angles to the boom will force oil under the skirt, and seas above 2 to 4 feet will throw oil over the top. Designers have tried to alleviate these faults by striving for the right combination of flexibility and strength.

GUMMING UP SLICKS

The ultimate in flexibility is the air barrier, of which a prototype has been built by Ocean Science and Engineering and Submersible Systems Inc. This method relies on a perforated conduit that sits on the sea bottom or is suspended at various depths. Air is pumped through at pressure and a screen of tiny bubbles rises to the surface, forming a dike against the passage of oil. Unfortunately, air barriers will not hold oil in currents stronger than about 0.7 feet per second, although they seem to be fairly effective in quiet waters, and they are very easy to set up.

The work of a boom would be made much easier if the oil itself were thickened or made less "oily." This can be accomplished with materials called sorbents, of which hay, straw, 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 mulcher to shred it and spit it out. Even matted with sorbent, oil will still slip under some booms when pushed by currents swifter than 1 foot per second, and so netting has been used to collect or hold back oil thus treated. This, however, is only practical with small slicks.

FAIR WEATHER FRIENDS

If an oil spill occurs far out at sea, it can safely be left to evaporate and decay. Inshore slicks that threaten harbors and beaches must be swept from the sea, and for this purpose a wide variety of skimming devices have been designed. Skimmers are almost always used with booms, and in some cases the skimmer is incorporated into the boom itself. An example of this design is a boom-skimmer invented for the Mobil Oil Corporation, which consists of an inflatable rubber tube with a trough built into it; the oil is supposed to collect in this trough, from which it can be drawn off by pumps. Obviously, such a system would work only on the calmest waters. Deepsea Ventures, Inc., has a boom that was specifically designed for a rough water use, and this has a skimmer attachment too. The boom is of the jointed, rigid skirt type. It is kept vertical in the face of currents by tension lines going to a secondary float line. The skimmer is connected to the boom skirt and consists of a lower oil pump and an upper air pump. The air pump creates suction that draws a flexible foam foot down on the oil slick. This makes a sealed pumping chamber that renders oil collection much more efficient.

True skimmer designs are legion, but almost all of them fall into three categories: weir or vortex skimmers, floating suction heads, and belt or absorbent surface skimmers. Weir skimmers maintain a suction head beneath the water-oil interface; this sucks the oil down and away. An unusual example of the type is the French Bertin vortex device. In this the suction head cylinder contains an impeller, which spins at high speed to create a vortex or whirlpool. The surface layer, consisting largely of oil, is pumped out to the storage vessel. Great care is needed to insure that the oil does not reach the impeller; this would emulsify the oil in water and create a secondary ascending vortex. The system works well in swells and currents and can be set up so that any winds accelerate the movement of hydrocarbons into the vortex established by the impeller.

Another French device is a variation on the floating suction head: instead of chasing through the slick with a suction head, the slick is corralled and brought to a pumping barge. In operation the suction barge is supplied with a retrievable corral boom and moored to a service ship. A second ship tows the free end of the boom around the slick and back to the pumping barge, where it is made fast. As the barge's floating suction head pumps the oil layer into floating storage tanks, the corral is continuously reeled in until all the oil has been removed. Suction head devices are generally ineffective in disturbed seas, but are well-suited for cleaning in harbors.

BELTING OUT THE OIL

The third and most complicated type of skimmer is the absorbent surface design. In these, an endless belt of some absorbent material is dipped into the oiled water and run back to some sort of extractor that wrings out the oil. The best belt material has been found to be polypropylene wool. This material floats but does not absorb water nor freeze. It does absorb oil, however, to a degree that varies with the grade and form of the polypropylene and the type of belt construction.

One such oil scrubber, developed at Shell Pipeline Corporation and Murphy Pacific Marine Salvage, demonstrates the basic features of this sort of system. A belt of polypropylene felt is run around a wringer out in a wide circle around an idler capstan supported by a boom. The wringer unit sits in a tub on the deck of the service vessel and the oil squeezed out of the belt is picked up by a sump pump at the bottom of the tub. The wringer also supplies the motive force for the belt. The rate of oil recovery using a 4-inch belt and a 3-horsepower motor can approach 500 gallons an hour, or more if a boom is used to collect the oil. The system is cheap, flexible, and can be adapted for use on a wide variety of water craft.

Rather more elaborate is the method used in Ocean Design Engineering Corporation's urethane chip harvester. (*See* "New Device Harvests Spilled Oil," *Sea Secrets*, Vol. 14, No. 4, July–August, 1970.) The method involves spraying urethane chips onto an oiled sea surface. The chips absorb oil and are then swept by harvesting booms onto conveyor belts. The belts take the chips to a compression unit which squeezes out the oil. The oil is pumped into storage tanks and the chips are cast once more onto the water. The method is relatively impervious to wave action since the chips, which are the actual recovery units, stay with the surface and are not submerged by the rise and fall of the vessel.

DEADLY MOUSSE

Chemical methods of oil dispersion, including burning, are more complicated than might first appear. The powerful industrial detergents used during the *Torrey Canyon* cleanup proved to be far more toxic to marine life than the oil itself. The beaches where such chemicals were used stank of solvent for weeks afterward. Also, where strong surf occurred, the water, detergent, and emulsified oil were whipped into a gray-brown sludge called "chocolate mousse," which proved nearly as obnoxious and difficult to remove as the original crude.

Early attempts to remove oil by burning it also proved frustrating. The flames consumed only the volatile fractions (which would have evaporated anyway) and left a tarry and nearly fireproof residue. In the last three years much effort has been directed at finding non-toxic detergents and methods of controlling burning.

The search for a harmless oil dispersant seems to have ended in success, at least as far as the British Board of Trade is concerned. The BBoT has ordered 50 sets of detergent spraying and mixing equipment to be mounted on sea-going tugs. The detergent they use is BP 1100, a solvent-surface agent mixture that is nontoxic in the concentrations used. The surface agent is an extract of a natural fat and is soluble in oil rather than water. The chemical is thus safe for use on beaches or in very shallow areas.

Although such a method may protect a coast against "ordinary" spills, some supplementary method would be required to cope with a major slick. Controlled burning might be such a method. Such burning requires bringing the sluggish petroleum into the region of combustion, rather like a wick does in a candle.

One means of doing this is with cellulated glass beads. Developed by Corning, these SeaBeads were used to burn the slick resulting from the wreck of the *Arrow* off Nova Scotia, with good results. After burning, only a negligible amount of oil and the nontoxic beads remained on the surface. In another instance, the Swedish Coast Guard burned a fuel oil spill with the aid of Cab-o-Sil ST-2-0. This chemical, developed by Cabot Corporation of Boston, is an extremely fine silica powder treated with a silane coating to render it water repellent. When spread onto a slick, the chemical forms a thin, foamlike coating on it. When combustion begins this coating acts as a wick, drawing warmed oil to the surface and insulating it from the cold oil and water below. Burning induced in this way will destroy 98 per cent of the oil, with the remainder forming a light and easily collectable crust.

For the removal of massive oil spills on the high seas, cost no object, the ultimate weapon seems now to be Shell Oil Company's huge oil sinking dredge. Shell is reported to have spent about $100,000 equipping a large dredge with two 60-foot booms and the apparatus required to spray tons of specially treated sand on the oil. The sand combines with the oil and sinks it to the bottom, where it is broken down by bacteria. Investment is heavy using this method because an equal weight of sand to oil is required. It is efficient, however, with 95 per cent removal, and most of all, fast: in tests off the coast of Holland 100 tons of oil were sunk in 15 minutes!

The most satisfying solution to a pollution problem is to find some way of augmenting natural controls. Research now going on 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; they would dilute far too quickly. Some scientists believe that nutrients can be uncapsulated in molecular packets that will stay with the oil and keep the bacteria going.

VIGILANCE AND OUTRAGE

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 waters, 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 story. It is sad history that the means for controlling other forms of pollution have existed, in many cases, for years. They were not effectively used, generally because such use conflicted with short-term economic goals. Probably it will require continued public vigilance and outrage to insure that oil spills are prevented where possible, and that when accidental spills occur they are removed by the most appropriate means.

S. 2894

At the request of Mr. BAYH, the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MONDALE), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2894, a bill to provide financial assistance for State and local small, community-

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 cosponsor 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 cosponsor of S. 2945, a bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies.

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. 549

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, said sum to be considered inclusive of 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. RANDOLPH, MUSKIE, CASE, BENTSEN, BURDICK, BYRD of West Virginia, CHURCH, COOPER, CRANSTON, HUGHES, HUMPHREY, JACKSON, JAVITS, KENNEDY, MAGNUSON, MANSFIELD, MCGOVERN, PELL, RIBICOFF, SPONG, 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 man has already 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 housing and zoning regulations, and better regulation of human and industrial wastes.

At the State level, new environmental protection laws are being enacted, and strong, new agencies 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.

From Scandinavia to the Far East, people are demanding an end to pollution—and governments are responding.

However, there is one serious roadblock to effective, worldwide pollution control.

That roadblock is the lack of any meaningful international coordination of environmental protection measures.

Strange though it may seem, the nations of the world have not yet joined together to integrate their attempts at controlling this universal problem.

It is for that reason, Mr. President, that I have today submitted a Senate concurrent resolution to express the sense of the Congress on this urgent matter.

This resolution addresses itself to a proposal for an agenda item at next year's United Nations Conference on the Human Environment.

As Senators know, this Conference is to be convened next June 5 in Stockholm, Sweden.

On that date the representatives of 130 countries, and several dozen international organizations, will gather for what one observer has described as, "one of the boldest and most comprehensive adventures in international cooperation ever attempted."

The goal of the resolution I have introduced today is to place before that assemblage the question of how we can insure that efforts at pollution control do not place individual nations at a disadvantage in international trade.

The resolution seeks to overcome that obstacle by establishing worldwide standards of environmental protection.

Further, there would be a multinational enforcement mechanism to insure that nations agreeing to the standards actually abide by them.

The resolution declares it is the sense of Congress that the United States delegates to the conference propose such a plan.

It directs our delegates to formulate, propose, and support, "Multilateral accords to achieve standards and regulations of environmental protection enforceable by the United Nations or multilateral economic sanctions."

It also specifies that such accords include mechanisms to assist the efforts of developing nations in meeting the antipollution standards.

Mr. President, it seems clear to me that the ultimate answer to our pollution problems must involve international standards of environmental protection.

Obviously, pollutants recognize no national boundaries.

Sewage in a river does not dissipate when the river flows over a frontier, and smog in the atmosphere does not evaporate when it drifts from one nation to another.

But if there is to be any hope for such worldwide efforts at pollution control, we must recognize that such action is necessarily entwined with economic realities.

Pollution control efforts can, and do, have a dramatic impact on international trade.

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 the importance of worldwide efforts to combat it, is, I think, self-evident.

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

> We all travel together, passengers on a little spaceship, dependent on its vulnerable reserves of air and soil; all committed for our safety to its security and peace; preserved 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 standards of 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 environmental protection.

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 along 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—steel—this situation has been painfully apparent.

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

During the last 6 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.

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

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 marketplace reflect these lower 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 formulation of worldwide 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 passed a resolution on December 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 Strategy for the Second United Nations Development Decade beginning on January 1, 1971, suggesting that Governments intensify national and international efforts to arrest 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 delegated to represent the United States of America at the 1972 United Nations Conference on the Human Environment advocate and support multilateral accords to achieve standards and regulations of environmental protection 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 seek to protect the 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 in impoverished, hungry nations of the world unless we can provide adequate substitutes to control destruction of their food supplies or in some other way alleviate 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 resolution recognizes 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—SUBMISSION 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. 54

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 hearings entitled "War Powers Legislation" held before the Senate Committee on Foreign Relations.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE 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. MILLER), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), and the Senator from Vermont (Mr. STAFFORD), be added as cosponsors of Senate Concurrent Resolution 45, providing for United Nations Charter review. This brings the total of cosponsors to 68—along with me making 69 Senators on this resolution.

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

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 203

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) 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 to lie on the table.)

Mr. HARTKE. Mr. President, the aviation system of our country is growing rapidly. While the current economic recession has forced a cutback in the services of scheduled airlines, general aviation, charter services, and commuter operations are on the increase.

Despite the importance of aviation to our economy and to the well-being and livelihood of millions of Americans, we have not done enough to plan for a safe aviation system either now or 10 years from now. So that we might have more information at our disposal to make such plans, I am today introducing an amendment to S. 1821 which requires the Administrator of the Federal Aviation Agency to make an annual report to the Congress which includes all data pertinent to aviation safety.

Mr. President, I ask unanimous consent that the text of my amendment be printed at the conclusion of my remarks.

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

AMENDMENT NO. 787

On page 4, between lines 15 and 16, insert the following new section:

SEC. 601. (f) The Administrator shall convey to the Congress no later than March 1 of each year a full report of actions taken during the previous year to improve the safety of the aviation system. Such report shall include, but not be limited to, the following information:

(1) All revisions of the regulations which pertain to aviation safety;

(2) Proposed revisions of the regulations either currently pending or to be proposed which pertain to aviation safety;

(3) Steps taken to improve the safety of airports;

(4) Steps taken to improve the air traffic control systems;

(5) Those specific steps taken to improve the safety of general aviation;

(6) Those specific steps taken to improve the safety of charter aircraft operations;

(7) Those specific steps taken to improve the safety of commuter and air taxi operations;

(8) Steps taken to improve the safety instrumentation of all classes of aircraft;

(9) Steps taken to improve the training, certification, and recertification process for pilots of all classes of aircraft;

(10) Steps taken to improve the standards and effectiveness of approved and nonapproved flight schools;

(11) Steps taken to improve the working relationship between Federal and State aviation agencies;

(12) Steps taken to improve the surveillance of aircraft in production;

(13) Steps taken to improve the surveillance of aircraft and airmen; and

(14) Steps taken to prevent aviation accidents.

HOUSING REFORM AMENDMENTS ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 788 AND 789

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

Mr. BROOKE. Mr. President, earlier this fall, the distinguished Senator from Minnesota (Mr. MONDALE) and I announced our intention to introduce legislation designed to expand and simplify existing housing assistance 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 alternatives that make these programs more responsive to the needs of families who cannot afford housing within the private market. Moreover and equally important, 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 priced out of 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 formulation of special 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 of near chaos remains chiefly characterized by a lack of uniformity of requirements and gaps in coverage while confusing and often conflicting guidelines continue to unnecessarily 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. Who can explain to a family in need of shelter why, under the current law, they may be eligible to rent an apartment in one building built under one Federal program but ineligible to rent a nearly identical unit in another building 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 federally assisted housing because they do not fall within the specific eligibility criteria of any program. We cannot continue to allow varying rent requirements, definitions of income, income limits, and family eligibility to frustrate our efforts to provide effective Federal housing assistance for all people of clearly demonstrated need.

Another set of problems, 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 peoples' 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 found in those areas where one race or another makes up the lowest income group. In these areas, a federally assisted housing program can become an unwitting, albeit de jure, 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 need for us to deal with the impact of federally sponsored income segregation on existing housing patterns.

Another undesirable ramification of income segregation lies in the 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-Igoes will it take before we decide to strike at the heart of 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, standardizing program requirements, eliminating segregation of projects by income and by offering incentives to encourage the production of assisted housing, we will effectively broaden the scope of existing programs to cover families and areas where real housing needs exist.

The key elements of this program are standardization of requirements and a flexible subsidy formula based on need. As to the first element, two separate programs, public agency housing and FHA insured assisted housing, would continue but would serve the same range of families. Both programs would have maximum development costs geared to a flexible formula using prototype construction cost figures. Thus they would be producing nearly identical products—safe, decent housing at a reasonable cost but containing amenities consistent with community standards and of a high architectural quality. The same income groups would be served by each program from those of lowest income to those of median income in the area, thus eliminating the gaps in coverage in existing programs.

At the same time, however, each project would be required to reserve at least 20 percent of its units for those of very low income requiring a subsidy of 60 percent of the market rent or more. With this approach, I believe we can enrich the economic mix of our housing assistance programs, increase their economic viability, yet insure that those families with the greatest need will not be harmed in the process.

There would be one standard national definition of income applicable to all families. Further, rent requirements—the same for each program—would be tied to income with a national requirement that no family be obligated to pay more than 25 percent of its income for rent. Locally, lower ratios could be established, with the Secretary's approval, to reflect differences in family size, income and local rent income patterns. However, each project or program would be required to maintain an average rent income ratio of at least 20 percent.

There would be no continuing 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 that we propose would cover 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 1969. What is proposed in the housing reform amendments is an extension of the principle of the variable subsidy to the FHA programs. These programs now contain a minimum rent requirement that restricts FHA program sponsors from instituting adequate management and tenant 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. One major cause of abandonment of many structurally sound buildings has been the unavailability of private mortgage money to refinance these properties. For too long we have ignored the economic and social desirability of neighborhood preservation. Abandoned housing is rapidly reaching epidemic proportions in many of our urban areas. These provisions would strive 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 communities to assist in providing low- and moderate-income housing. A program of public service grants would be established to help offset any increases in public services resulting from the addition 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 go 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, not adequate 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 thereafter 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 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 part of last year's Housing and Urban Development Act would be expanded to permit a greater variety of experiments. The authorization for the program would be increased to $25 million annually in contract authority.

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 itself to 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 by reason of different income requirements would be ended.

Third, the provision for a cross-section of income occupancy, tied to a flexible and dependable subsidy mechanism would insure that social and economic problems would be minimized, and that changing local conditions could be accommodated without disastrous defaults and financial crises.

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 areawide housing development. It is clear by now that meaningful housing development, with its interconnecting relationship to other areas of expanding community growth, must transcend the limits of local planning.

Mr. President, the measures that I am introducing will require a fundamental reexamination of past practices and procedures. But the problems that I have outlined are stark and unremitting as they continue to restrict the most effective 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. 788

On page 5, beginning with line 16, strike out through line 22 on page 6, and insert in lieu thereof the following:

SEC. 3. (a) The Secretary shall not insure a mortgage under section 402 or 502 covering property in an area which exceeds, for that part of the property attributable to dwelling use, the sum of (A) 120 per centum of the prototype construction cost for 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 particular project or dwelling is subject to unavoidable or unforeseeable cost increases.

(b) The Secretary shall determine prototype construction costs for each type and size of dwelling unit and project in each area at least annually on the basis of (1) his estimate of the construction costs of comparable new dwelling units of various 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 application of good design as an essential component of such housing and maintenance of quality in architecture to reflect the standards of the neighborhood and community, (5) the effectiveness of existing mortgage limits in the area, and (6) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(c) As used in this section the term "construction costs" means those 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.

On page 9, line 26, before the semicolon insert the following: "and home mortgages insured under section 401(g)".

On page 25, after line 25, insert the following:

(g)(1) In order to assist in preserving and improving the quality of existing neighborhoods and properties, and to prevent abandonment of properties in viable neighborhoods, the Secretary is authorized to insure any mortgage executed by the occupant of a single family dwelling to refinance an existing mortgage on that dwelling.

(2) To be eligible for insurance under this subsection, a mortgage shall—

(A) be secured by the property which is to be refinanced with the proceeds thereof;

(B) be in a principal amount not exceeding the sum of 90 per centum of the appraised value of the property at the time of its refinancing under the mortgage plus the estimated cost of any repairs; and

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

(3) 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 sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program 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(j)".

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

(j)(4) In order to assist in preserving and improving the quality of existing neighborhoods and properties, and to prevent abandonment of properties in viable neighborhoods, the Secretary is authorized to insure any mortgage covering a multifamily housing project to refinance an existing mortgage on that project.

(2) To be eligible for insurance under this subsection, a mortgage shall—

(A) be secured by the property which is to be refinanced with the proceeds thereof;

(B) be in a principal amount not exceeding the sum of 90 per centum (97 per centum in the case of a cooperative) of the appraised value of the property at the time of its refinancing under the mortgage plus the estimated cost of any repairs; and

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

(3) No mortgage shall be insured under paragraph (1) unless the Secretary determines—

(A) that the property to be refinanced is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program for neighborhood preservation, conservation, or rehabilitation;

(B) that the property is basically sound or capable of repair without substantial rehabilitation; and

(C) in the case of a refinancing which involves an existing owner, that the management and maintenance services provided by that owner have been adequate.

(4) If the Secretary determines that an extension of the amortization term of any mortgage insured under this subsection would avoid or reduce the amount of any rent increase (or any increase in charges in the case of a cooperative project), he may extend such term.

(5) Nothing in this section shall be construed to preclude the insurance of mortgages which involve projects containing units to be made available to low or moderate income families, or which involve a change in the form of ownership or manner of operation of a project.

On page 26, beginning with line 1, strike out through line 3 on page 30 and insert in lieu thereof the following:

HOMEOWNERSHIP ASSISTANCE

SEC. 402. (a) For the purpose of assisting lower income families in acquiring homeownership or in acquiring ownership of a dwelling unit in a cooperative project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative unit owners. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special 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, and—

(1) the homeowner shall be a mortgager under a mortgage which meets the requirements of and is insured under this section; or

(2) 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 construction, substantial rehabilitation 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 had no previous occupant other than the mortgagor or which is an existing project insured under section 213, section 221(d)(3), or section 236 of the National Housing Act, or receiving the benefits of section 101(a) of the Housing and Urban Development Act of 1965, or 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 purchasers eligible for mortgage insurance and assistance payments under this section: *Provided*, that the cooperative project involved has consumer-oriented sponsorship 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 financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c) The assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage. Such payments may also be made on behalf of a homeowner or owner of a dwelling unit in a cooperative project who assumes a mortgage insured under this section and who occupies the property secured by the mortgage with respect to which assistance payments have been made on behalf of the previous owner, if the new homeowner or owner of a cooper-

ative unit is approved by the Secretary as eligible for receiving such assistance. The Secretary is also authorized to continue making assistance payments where the mortgage has been assigned to the Secretary.

(d) The assistance payments shall be in an amount not exceeding the lesser of—

(1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(2) the difference between the amount of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for 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 payments for taxes and insurance.

(e) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (d) or (j)(6), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f)(1) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c).

(2) No assistance payments shall be made under this section unless the Secretary is satisfied that the mortgagor's residual income is sufficient to pay normal utility and maintenance costs.

(g) The Secretary shall prescribe such regulations as he deems necessary (1) to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner or cooperative unit owner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed, and (2) to provide where necessary to prevent excessive profits for the repayment out of the net proceeds accruing to a homeowner or cooperative unit owner as a result of any sale or other disposition of property with respect to which assistance payments under this section were made, of an amount equal to the amount of principal attributable to such assistance payments, or such lesser amount as the Secretary determines to be equitable taking into account the circumstances surrounding such sale or disposition.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 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.

(2) Notwithstanding the provisions of subsection (b) (2) or (1), not more than 30 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after July 1, 1972, may be made with respect to existing dwelling or dwelling units in existing projects, except that such payments may be made with respect to dwelling units in existing projects occupied by displaced families as defined in section 221(f) of the National Housing Act or by families which include five or more minor persons without regard to the limitations of this paragraph.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after July 1, 1972, shall be available for use only with respect to dwellings or dwelling units in projects which are approved by the Secretary prior to substantial rehabilitation.

(i) The Secretary is authorized to insure a home mortgage (including open-end advances) meeting the requirements of section 401, except that such mortgage shall—

(1) involve a single-family dwelling or a one-family unit in a cooperative or condominium, and

(2) have a principal obligation not to exceed an amount equal to the sum of (A) the appraised value of the property on the date the mortgage is accepted for insurance (or, in the case of rehabilitation, the sum of the estimated cost of rehabilitation plus the estimated value of the property prior to rehabilitation as determined by the Secretary), and (B) an amount not to exceed the total of all closing costs and prepaid expenses less $200, to be determined by the Secretary, to cover such costs and expenses.

(j)(1) In addition to mortgages insured under the provisions of subsection (i), the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale), and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semi-detached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established, except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b).

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than $200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms "single-family dwelling", "single-family dwellings", "individual dwelling", and individual dwellings" shall mean a famiy unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) In addition to the assistance payments authorized under subsection (b), the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an

amount not exceeding the difference between the monthly payment for principal, interest, taxes, insurance, 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.

(k) The Secretary is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagers whose mortgages are insured under this section as he determines to be necessary to meet the objectives of this section. The Secretary may also provide such counseling to otherwise eligible families who lack sufficient funds to supply a down payment to help them to save an amount necessary for that purpose.

(l) For the purpose of this section "lower income families" means those families whose incomes do not exceed the median income for the area as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variances are necessary because of the prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(m) In determining the income of any family for the purpose of this section, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(2) an amount equal to $300 for each dependent and for each secondary wage earner;

(3) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(4) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion.

(n) In addition to the assistance payments authorized under the other provisions of this section, the Secretary may make assistance payments, subject to subsection (d), to a mortgagee on behalf of a homeowner who meets the income requirements of this section if (1) the mortgage with respect to which such payments are to be made was executed for the purpose of rehabilitating or renovating the property involved, (2) that mortgage is insured under or meets the requirements of subsection (1) of this section, and (3) that homeowner continues to occupy such property.

On page 32, between lines 23 and 24, insert the following: "and, in the case of properties or projects intended for the use of elderly or handicapped persons, the units, spaces, and facilities may incorporate design features to serve the special needs of such persons,".

On page 33, beginning with line 5, strike out through line 8 on page 39, and insert in lieu thereof the following:

MULTIFAMILY HOUSING ASSISTANCE

SEC. 502. (a) For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of a rental housing project, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Assistance payments with respect to a project shall only be made during such time as the project is operated as a multifamily housing project and (1) is subject to a mortgage which meets the requirements of and is insured under, subsection (j), or which has been assigned to the Secretary, or (2) is owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation, and is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which 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.

(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 premiums, taxes, utilities, maintenance, management, and operating costs (including appropriate tenant services approved by the Secretary)) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, rents or other income from nonresidential tenants, interest or any direct project investments and other revenues as determined by the Secretary). 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 payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

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

(f) (1) For each dwelling unit there shall be established with the approval of the Secretary—

(A) an operating rental charge determined on the basis of operating, maintaining, and managing the project exclusive of debt service payments, and

(B) a fair market rental charge determined on the basis of operating the project with payments on principal, interest, mortgage insurance premium, which the mortgagor is obligated to pay under the mortgage covering the project.

(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 rent-to-income ratio in a project shall be not 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 as rental not less than the operating rental charge established under paragraph (1)(A) of this subsection.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of those charges specified for collection in the assistance contract with the mortgage. Such excess charges shall be deposited by the Secretary in a fund which may be used by him as a revolving fund for the purpose of making assistance payments with respect to any rental housing project receiving assistance under this section, subject to limits approved in appropriation Acts pursuant to subsection (i). Moneys in such funds not needed for current operations may be invested in bonds or other obligations of the United States or in bonds or other obligations guaranteed as to the principal and interest by the United States.

(h) (1) The Secretary shall require, in the case of any new project, that at least 20 per centum of the units initially be made available for very low income families. The Secretary shall also prescribe regulations to ensure that new units in any such project shall be made available to 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 insure that the availability of units in any new project shall be published, along with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and, in the case of any project located in a standard metropolitan statistical area, in a newspaper which serves the central city in such area.

(3) For the purpose of this subsection, the term "very low income family" means any family with respect to which assistance payments in excess of 60 per centum of the rental charge established under subsection (f) (1) (B) would be paid.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make assistance payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $250,000,000 on July 1, 1970, by $280,000,000 on July 1, 1971, by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,000 on July 1, 1974.

(j) (1) The Secretary is authorized to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of section 501, except as modified under this subsection, upon a multifamily housing project to be occupied primarily by lower income tenants.

(2) If the mortgage is executed by a mortgagor which is a cooperative, a private nonprofit corporation or association, a public agency, or a builder-seller, as defined by the Secretary, the principal obligation of the mortgage shall not exceed—

(A) in the case of new construction, the Secretary's estimate of the replacement cost of the property or project when the proposed improvements are completed;

(B) in the case of rehabilitation, the sum of the Secretary's estimate of the cost of rehabilitation plus the Secretary's estimate of the value of the property before rehabilitation; or

(C) in the case of the purchase or refinancing of existing property without rehabilitation, the appraised value of the property as of the date the mortgage is accepted for insurance.

(3) If the mortgage is executed by a limited distribution corporation or other limited dividend entity, as defined by the Secretary, or an investor-sponsor who agrees to sell the project to a cooperative, and who meets such requirements as the Secretary may prescribe to assure that the consumer interest is protected, the amount of the mortgage

shall not exceed 90 per centum of the amount otherwise authorized under this section.

(4) In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative, a public agency or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payments of all operating expenses, these are required reserves.

(5) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to eligible lower income purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) For the purpose of this section—

(1) the term "tenant" includes a member of a cooperative and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(2) the term "low income tenants" means those tenants whose income do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(3) the term "tenant services" includes but is not limited to the following services and activities for families living in housing projects assisted under this section: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services;

(4) in determining the income of any family, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of family members under 18 and the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(B) an amount equal to $300 for each dependent and for each secondary wage earner;

(C) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(D) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion; and

(5) the term "cooperative" means a nonprofit corporation or a nonprofit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities when the permanent occupancy of the dwellings will be restricted to members of such a cooperative.

(l) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make assistance payments, subject to the terms and conditions specified in this section and in rules, regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by a State or agency thereof for the purpose of making assistance payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified herein. Before entering into any agreement pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of assistance payments for the full period specified in the assistance payment contract, and the Secretary shall undertake no obligation to make such assistance payments as surety, guarantor, or in any other similar capacity.

On page 33, beginning with line 5, strike out through line 8 on page 39, and insert in lieu thereof the following:

MULTIFAMILY HOUSING ASSISTANCE

SEC. 502. (a) For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of a rental housing project, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Assistance payments with respect to a project shall only be made during such time as the project is operated as a multifamily housing project and (1) is subject to a mortgage which meets the requirements of and is insured under, subsection (j), or which has been assigned to the Secretary, or (2) is owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation, and is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which 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.

(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 premiums, taxes, utilities, maintenance, management, and operating costs (including appropriate tenant services approved by the Secretary)) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, rents or other income from on-residential tenants, interest or any direct project investments and other revenues as determined by the Secretary). 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 payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

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

(f) (1) For each dwelling unit there shall be established with the approval of the Secretary—

(A) an operating rental charge determined on the basis of operating, maintaining, and managing the project exclusive of debt service payments, and

(B) a fair market rental charge determined on the basis of operating the project with payments on principal, interest, mortgage insurance premium, which the mortgagor is obligated to pay under the mortgage covering the project.

(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 rent-to-income ratio in a project shall be not 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 as rental not less than the operating rental charge established under paragraph (1)(A) of this subsection.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of those charges specified for collection in the assistance contract with the mortgage. Such excess charges shall be deposited by the Secretary in a fund which may be used by him as a revolving fund for the purpose of making assistance payments with respect to any rental housing project receiving assistance under this section, subject to limits approved in appropriation Acts pursuant to subsection (i). Moneys in such fund not needed for current operations may be invested in bonds or other obligations of the United States or in bonds or other obligations guaranteed as to principal and interest by the United States.

(h) (1) The Secretary shall require, in the case of any new project, that at least 20 per centum of the units initially be made available for very low income families. The Secretary shall also prescribe regulations to insure that new units in any such project shall be made available to 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 insure that the availability of units in any new project shall be published, along with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and, in the case of any project located in a standard metropolitan statistical area, in a newspaper which serves the central city in such area.

(3) For the purpose of this subsection, the term "very low income family" means any family with respect to which assistance payments in excess of 60 per centum of the rental charge established under subsection (f)(1)(B) would be paid.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make assistance payments under contracts entered into under this section. The aggregate amount of

contracts to make such payments shall not exceed amounts approved in appropriation acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $250,000,000 on July 1, 1970, by $280,000,000 on July 1, 1971, by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,00 on July 1, 1974.

(j) (1) The Secretary is authorized to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of section 501, except as modified under this subsection, upon a multifamily housing project to be occupied primarily by lower income tenants.

(2) If the mortgage is executed by a mortgagor which is a cooperative, a private nonprofit corporation or association, a public agency, or a builder-seller, as defined by the Secretary, the principal obligation of the mortgage shall not exceed—

(A) in the case of new construction, the Secretary's estimate of the replacement cost of the property or project when the proposed improvements are completed;

(B) in the case of rehabilitation, the sum of the Secretary's estimate of the cost of rehabilitation plus the Secretary's estimate of the value of the property before rehabilitation; or

(C) in the case of the purchase or refinancing of existing property without rehabilitation, the appraised value of the property as of the date the mortgage is accepted for insurance.

(3) If the mortgage is executed by a limited distribution corporation or other limited dividend entity, as defined by the Secretary, or an investor-sponsor who agrees to sell the project to a cooperative, and who meets such requirements as the Secretary may prescribe to assure that the consumer interest is protected, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section.

(4) In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative, a public agency or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(5) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to eligible lower income purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) For the purpose of this section—

(1) the term "tenant" includes a member of a cooperative and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(2) the term "low income tenants" means those tenants whose incomes do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(3) the term "tenant services" includes but is not limited to the following services and activities for families living in housing projects assisted under this section: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services;

(4) in determining the income of any family, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of family members under 18 and the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(B) an amount equal to $300 for each dependent and for each secondary wage earner;

(C) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(D) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion; and

(5) the term "cooperative" means a nonprofit corporation or a nonprofit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities when the permanent occupancy of the dwellings will be restricted to members of such a cooperative.

(l) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make assistance payments, subject to the terms and conditions specified in this section and in rules, regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by a State or agency thereof for the purpose of making assistance payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified herein. Before entering into any agreement pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of assistance payments for the full period specified in the assistance payment contract, and the Secretary shall undertake no obligation to make such assistance payments as surety, guarantor, or in any other similar capacity.

On page 76, line 9, before the period insert a comma and the following: "including responsibility for the establishment of rents and eligibility requirements (subject to the approval of the Secretary)".

On page 76, beginning with line 15 strike out all through line 10, on page 77, and insert the following:

"'(A) The term 'low-income housing' means well-designed but not luxurious housing in a local area, as determined by the Secretary, the construction cost of which does not exceed by more than 20 per centum the appropriate prototype construction costs for the area. Prototype construction costs (excluding the cost of land, demolition, and site improvements and nondwelling facilities) shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area. The Secretary in determining an area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision 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 encouraging good design as an essential component of such housing and to producing housing which will be of such quality as 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.

"(B) Occupancy shall be limited to families who at time of entry into a project are low-income families. Rents for low-income housing shall be determined by the public housing agency with the approval of the Secretary. The average rental for dwelling units administered by a public housing agency shall be not less than one-fifth of family income, and no rental for any single dwelling unit shall exceed one-fourth of family income. Income, for purposes of this Act, means income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (i) non-recurring income, as determined by the Secretary, and the income of dependent, full-time students shall be excluded; (ii) an amount equal to the sum of $300 for each dependent, $300 for each secondary wage earner, 5 per centum of the family's gross income (10 per centum in the case of elderly families), and those medical expenses of the family properly considered extraordinary shall be deducted; and (iii) the Secretary may allow further deductions in recognition of unusual circumstances."

On page 77, beginning with line 11, strike out all through line 10 on page 78 and insert the following:

"(2) (A) The term 'low-income families' means families the income of which do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median income for the area on the basis of his finding that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other relevant factors.

"(B) The term 'families' includes families consisting of a single person in the case of elderly families and displaced families, and includes the remaining member of a tenant family.

"(C) The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are at least fifty years of age, or are under a disability as defined in section 223 of the Social Security Act, or are handicapped. A person shall be considered handicapped if such person 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 impedes his ability to live independently and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

"(D) The term 'displaced families' means families displaced by governmental action, or families whose present or former dwellings are situated in areas determined by the Small Business Administration, subsequent

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 other governmental entity or public body (or agency or instrumentality thereof), including a metropolitan or regional agency, or any multi-State agency, which is authorized to engage in or assist in the development or operation of low-income housing."

On page 82 beginning with line 16, strike out all through line 9, on page 87, 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 embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this subsection shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project involved. The amount of such annual contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this subsection for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition, acquisition and rehabilitation, or use under lease of structures which are suitable for low-income housing use and obtained in the local market. Annual contributions payable under this subsection shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which such annual contributions relate and shall be paid over a period not to exceed forty years.

"(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 owned by said public housing agency; in the event such contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(c) In recognition that there should be local determination of the need for low-income housing—

"(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; 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; and

"(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act.

"(d) (1) In addition to the annual contributions authorized under subsection (a), the Secretary may make contributions to public housing agencies to assist in the operation of their projects. Contributions under this subsection shall be payable annually and shall not exceed such amounts as the Secretary determines are required (A) to assure the low-income character of the projects involved, and (B) to achieve adequate operating services and reserve funds. The Secretary may embody the provisions for annual contributions in accordance with this subsection in a contract guaranteeing their payment.

"(2) At the initial stage of development of each new low-income housing project, or in the case of existing projects at the earliest practicable time after the date of enactment of this section, the public housing agency operating the project shall determine with the approval of the Secretary, appropriate and required operating services and reserve funds, including tenant services, based on the character and location of the project so the characteristics of the families to be housed. Services so determined shall constitute the base level of operating services of a public housing agency. If income from a project of a public housing agency will not be sufficient in any year to meet the agency's base level of operating services at projected costs for that year, the Secretary may make contributions to meet the residual cost. The commitment to maintain a base level of operating services shall be incorporated in an annual contributions contract. A public housing agency shall signify its base level of operating services requirements at the beginning of its operating year and at the time of the preparation of its annual budget. A public housing agency shall at the time of its reexamination of tenant income (at least every two years) reexamine its base level of operating services in order to determine the adequacy of the services provided for in the light of changing conditions and standards.

"(e) In addition to the annual contributions authorized under subsections (a) and (d), the Secretary may make contributions to public housing agencies to effect such improvement in existing projects administered by such agencies as the Secretary determines are necessary to bring such projects up to minimum standards prescribed by the Secretary for new projects. Contributions under this subsection shall be payable annually and provision therefor may be embodied in a contract guaranteeing their payment.

"(f) Income limits for occupancy, rents, and other requirements applicable to low-income housing projects shall be determined without regard to whether annual contributions with respect to such projects are being provided pursuant to subsections (d) and (e).

"(g) Any portion of an annual contributions payment made to a public housing agency pursuant to a contract under this section which is not used by the agency in the year for which it was made shall, under regulations prescribed by the Secretary, effect a pro tanto reduction in any subsequent annual contributions payment made to such agency.

"(h) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the low-income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract of the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(i) (1) The aggregate contracts for annual contributions entered into by the Secretary under subsection (a), and section 10 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971, shall not exceed $1,424,250,000 per annum, which limit shall be increased by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,000 on July 1, 1974: *Provided*, That at least 30 per centum of the total amount of such contracts entered into in any fiscal year pursuant to new authority granted to the Secretary by any Act of Congress enacted on or after December 31, 1970, shall be entered into with respect to units of low-income housing in private accommodations provided under section 8 (section 23 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971). The Secretary is also authorized to enter into contracts for annual contributions (A) under subsection (d) aggregating not more than $300,000,000 per annum, and (B) under subsection (e) aggregating not more than $100,000,000 per annum.

"(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into under subsection (a). In administering the authority provided under this section, the Secretary shall assure that public housing agencies have complied with the requirements of section 8(a)(1) concerning the provision of low-income housing in private accommodations. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there is hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions."

On page 99, beginning with line 10, strike out all through line 22, on page 100, and renumber succeeding sections accordingly.

On page 87, beginning with line 25, strike out all through line 11, on page 88, and insert the following:

"(b) Every contract made pursuant to this Act for loans (other than preliminary loans) and annual contributions shall provide that the construction cost of the project (excluding the cost of land, demolition, site improvement, non-dwelling facilities, and the cost of relocation assistance) on which the computation of any annual contributions under this Act may be based shall not exceed by more than 20 per centum the appropriate prototype cost for the area, except where the Secretary determines (on a proj-

ect-by-project basis) that this limitation 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 "(1)".

On page 89, line 1, strike out "(3)" and insert "(2)".

On page 89, beginning with line 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 is exempt from real and personal property taxes levied or imposed by the State, city, county, or other political subdivision in which 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 respect to which a public housing agency is required to make payments in lieu of taxes, if 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 amount 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 lieu 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 public 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 family, and (B) the cost of the utility 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 public housing agency to finance the development or acquisition cost of the project.

"(g) (1) Every contract for annual contributions shall provide that, if the Secretary and the public housing agency agree that a project with respect to which such contributions are made is obsolete as to physical condition or location, the Secretary may, in lieu of any other obligation 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 is 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 facility 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 25, on page 103, and insert the following:

"HOMEOWNERSHIP FOR 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 families 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 low income eligible for low-income 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 sale 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 satisfactory to the Secretary, but not to exceed forty years;

"(F) provide that 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 shall the purchaser's income contribution be less than the amount of '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 the purchased property;

"(H) provide that the purchaser shall make monthly payments for any services furnished 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 provisions of the mortgage or other obligation, amounts for insurance and taxes, and an amount attributable to the cost of utilities 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 time of sale which is allocable to the dwelling unit or units 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 mutual-help projects or homebuyers in homeownership opportunity projects voluntarily elect to purchase their low-income housing units 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 acquire 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 acquisition of a dwelling unit in any 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 pay at least (i) a pro rata share cost of any services furnished him by the public agency, including but not limited to, administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses, (ii) local taxes on his dwelling unit, or a portion thereof, as determined by the Secretary, and (iii) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years.

"(B) If at any time (i) a purchaser fails to carry out his contract with the public housing agency and if no adult member of his family who resides in the dwelling assumes such contract, or (ii) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the public housing agency shall have an option to acquire his interest under such contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the public housing agency of any improvements made by him.

"(2) The public housing agency shall continue to make local tax payments upon the sale under this subsection of the project, or any dwelling unit in the project, if (A) the local governing body so requests, or (B) the Secretary determines that such payments should be continued, in whole or in part, to make it possible for any low-income family to purchase a home. Any payments so made shall (i) be in lieu of real or personal property taxes which might otherwise be levied or imposed on the project or dwelling unit, as the case may be, and (ii) 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 affect the Secretary's commitment to pay annual contributions with respect to such project, but such contributions shall not exceed the maximum contributions authorized under this Act.

"(e) A public housing agency shall, before selling any project or dwelling unit 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 finance repairs or improvements in accordance with the provisions of this subsection. The sales price of any project or dwelling unit 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 allocable to the dwelling unit or units involved.

"(f) 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 requirement that upon the resale of any such unit the seller shall be obligated to pay to the United States an amount equal to (1) the Federal subsidy received by, or for the benefit of, the seller in reduction of the principal amount of any mortgage covering property during the period in which it was held by the seller, or (2) that part of 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.

"(g) 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:

"SEC. 208. Except as provided in sections 201–207, this title shall take effect on January 1, 1973; except that—

"(1) any adjustment required by the provisions of the United States Housing Act of 1937, as amended by section 201 of this title, in what is to be considered income, or in rents for dwelling units in low-income housing shall be made at the first regular reexamination of tenant income following such date; and

"(2) the provisions of section 5(d) of the United States Housing Act of 1937, as amended by section 201 of this title, relating to annual base level operating assistance contributions pursuant to contracts entered into by the Secretary, shall take effect upon the date of enactment of this Act."

SECTION-BY-SECTION SUMMARY OF AMENDMENT 788 TO S. 2049, THE HOUSING SIMPLIFICATION AND CONSOLIDATION ACT OF 1971

This amendment proposes a series of changes to S. 2049 in the following areas:

TITLE I: MORTGAGE CREDIT ASSISTANCE

Title I of S. 2049 contains a complete rewrite of the National Housing Act and proposes a seven title "Revised National Housing Act." Amendment 788 would modify the following sections of this "Revised National Housing Act.":

Section 3. 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 in that area and (2) the appraised value of the land and actual cost of site improvements. However, the Secretary could insure a mortgage under section 402 and 502 which exceeded the above on an individual case basis if he determines that the particular project or dwelling is subject to unavoidable or unforeseeable cost increases.

Subsection (b) directs the Secretary to determine prototype construction costs for each type and size of dwelling units and project in each housing market area at least annually. These prototypes would be based on the following: (1) an estimate of the construction costs of comparable new dwelling units of various types and sizes; (2) the extra durability required for economical maintenance of such housing: (3) the provision of amenities to guarantee safe and healthy family life and neighborhood environment, (4) good design and quality in architecture to reflect neighborhood and community standards; (5) the effectiveness of existing FHA mortgage limits in the areas, and (6) the advice and recommendations of local housing producers. These prototype construction costs would become effective upon the date of publication in the *Federal Register*.

Subsection (c) would define "construction costs" as those cost items which are normally reflected in the amount of a home mortgage or multifamily mortgage insured under section 402 and 502, except for the cost of land and site improvements.

Section 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].

Section 401. Home mortgage insurance.—Basic insurance program.—Section 401 of the "Revised National Housing Act" as proposed in S. 2049 would be amended by adding a new subsection (g). This subsection would authorize the Secretary to insure a mortgage executed by the occupant of a single family dwelling to refinance an existing mortgage on that dwelling so to assist in preserving and improving the quality of existing neighborhoods and properties and to prevent the abandonment of such properties. Mortgages eligible for insurance under this subsection shall: (1) be secured by the property which is to be refinanced; (2) be in a principal amount not exceeding the sum of 90 percent of the appraised value of the property plus the estimated cost of any repairs; and (3) provide for the complete amortization by periodic payments within such term as the Secretary prescribes.

No mortgage can be insured under this subsection unless it is (a) located in a stable neighborhood containing adequate public facilities or in an area in which the community is planning to carry out a program for neighborhood preservation, conservation or rehabilitation and (b) the property is basically sound or capable of repair without substantial rehabilitation.

Section 402. Homeownership assistance.—S. 2049 provides in section 402 a program to assist lower income families in acquiring homeownership. (This would replace the present section 235 program.) This entire section would be deleted and a new section 402, dealing with homeownership assistance, inserted in its place.

Subsection (a) authorizes the Secretary to make and to contract to make periodic assistance payments on behalf of eligible lower income families to assist them in acquiring homeownership or ownership of a unit in a cooperative (sales cooperatives). Such assistance will be in the form of payments to mortgagees holding mortgages meeting the special requirements in this section.

Subsection (b) sets forth the general requirements for assistance under section 402. The homeowner or owner of a cooperative unit must be of lower income and satisfy eligibility requirements prescribed by the Secretary. For homeownership (including ownership of a condominium unit) the owner must be a mortgagor under a mortgage meeting the requirements of and insured under section 402.

For ownership of a unit in a cooperative, the owner must be a mortgagor under a mortgage meeting the requirements of and insured under section 402. Such a unit must be (a) in a cooperative project, the construction, substantial rehabilitation or acquisition of which was financed through a mortgage insured under section 501 of the Revised National Housing Act, completed within two years prior to the filing of an application for assistance; and had no previous occupant: or (b) in an existing project, insured under Sections 213, 221(d)(3) or 236 of the National Housing Act, receiving rent supplements or financed under the low rent public housing program, and the units are to be sold to purchasers eligible for mortgage insurance and assistance payments under this section. The subsection also provides that to be eligible for assistance, the cooperative must have consumer-oriented sponsorship and will continue to provide community facilities for the owners of such units.

This subsection also provides an exception to the above and permits the Secretary to make assistance payments on behalf of otherwise eligible families involving homes or cooperative units which are being financed through a state or local program providing assistance through loans, loan insurance, or tax abatement and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

Subsection (c) provides that assistance payments may be made during such time as the mortgagor continues to occupy the property. Such payments may continue to be made if a new owner purchases the property and is approved by the Secretary as eligible to receive such assistance. The Secretary is also authorized to continue making assistance payments where the mortgage has been assigned to him.

Subsection (d) provides that assistance payments shall be an amount not to exceed the lesser of (1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurances premiums due under the mortgage remaining unpaid after deducting 20% of the mortgagor's income; or (2) the difference between the monthly payment required for principal, interest, taxes, insurance and mortgage insurance premium and the monthly payment for taxes, insurance and mortgage insurance premium. In no case, however, shall monthly payments be less than the sum of monthly payments for taxes and insurance.

Subsection (e) permits the Secretary to include in that payment to the mortgagee an amount to reimburse the mortgagee for its expenses in handling the mortgage.

Subsection (f) provides that procedures shall be adopted to recertify mortgagor's income every two years for the purpose of adjusting the amount of assistance. This subsection also provides that no assistance payments shall be made unless the Secretary is satisfied that the mortgagor's residual income is sufficient to pay normal utility and maintenance costs.

Subsection (g) requires the Secretary to prescribe regulations to assure that the sales price of properties to be purchased under the program are not increased above the appraised value on which the maximum mortgage is computed. This subsection also requires the Secretary to prescribe regulations to present excessive profits upon sale or disposition of property assisted under this section, in which case the seller would be required to repay, out of net proceeds, an amount equal to that portion of the assistance payments which covered principal determined by the Secretary to be equitable taking into account the circumstances surrounding the sale or disposition.

Subsection (h) authorizes the appropriation of funds to carry out the provisions of this section including sums to make assistance payments under contracts entered into under this section. Such contract authority

shall not exceed amounts approved in appropriation acts, and such contracts shall not exceed $75 million prior to the beginning of fiscal year 1970, and shall be increased by $125 million in fiscal year 1970, $150 million for fiscal year 1971, and $200 million for fiscal year 1972, $250 million in fiscal year 1973, $300 million in fiscal year 1974, and $350 million in fiscal year 1975.

This subsection also provides that not more than 30 percent of the contract authority approved in appropriations acts made after July 1, 1972 be made with respect to existing units except in the case of units for families displaced by public action or families with five or more minors where this limitation will not apply. Also, not less than 10 percent of this contract authority approved in appropriations acts shall be used for properties approved by the Secretary prior to substantial rehabilitation.

Subsection (i) authorizes the Secretary to insure a home mortgage (including open-end advances) under this section which meets the requirements of section 401 except that such a mortgage shall: (1) involve a single-family dwelling or a one-family unit in a condominium or cooperative, and (2) have a principal obligation not to exceed (a) the appraised value of property (or if a rehabilitated property, the sums of the estimated cost of rehabilitation plus the estimated value of the property prior to rehabilitation), and (b) an amount not to exceed all closing costs and prepaid expenses less $200.

Subsection (j) authorizes the Secretary to insure a mortgage executed 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 rehabilitation is 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 action is being taken (including the rehabilitation under this section) to give reasonable promise that a healthy environment will be created.

Under subsection (j)(4) the Secretary is authorized to insure the individual mortgages given to finance the resale of this housing to families eligible to receive assistance under this section after the purchase and/or rehabilitation of the property. The Secretary also is authorized to pay on behalf of the mortgagor the difference between the required monthly payment for principal, interest, taxes, insurance, and 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 contract with public or private organizations to provide, budget, debt management and related counseling services to families whose mortgage is insured under this section the Secretary may also provide counseling to eligible families who lack funds for a downpayment to help them save for this purpose.

Subsection (l) defines "lower income families" to mean those families whose income does not exceed the median income for the area. The Secretary may make adjustments for family size and can raise or lower these ceilings if construction costs, unusually high or low median family incomes, or other factors warrant such action.

Subsection (m) defines "income" to mean all income from each member of the family in the household, with the following exceptions: (1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and nonrecurring income; (2) an amount equal to $300 for each dependent and each secondary wage earner; (3) an amount equal to 5 percent of gross income (10 percent in the case of an elderly family); and (4) medical or other expenses as the Secretary approves for exclusion.

Subsection (n) provides for assistance to owner occupants to rehabilitate their own property, if such owner-occupant is otherwise eligible for assistance. It authorizes the Secretary to make assistance payments, subject to subsection (d), to a mortgagee on behalf of a homeowner who meets the income requirements if (1) the mortgage was executed for the purpose of rehabilitating or renovating the property involved, (2) that mortgage is insured under or meets the requirements of subsection (i) of this section, and (3) that homeowner continues to occupy such property.

Section 501. Project mortgages—Multifamily housing—Section 501 of S. 2049 sets forth the general insurance requirements for multifamily housing. It would be amended as follows:

Section 501(i) of S. 2049 sets forth certain requirements for insuring project mortgages. This subsection would be amended to permit projects or properties, intended for the use of the elderly or handicapped, to incorporate design facilities to serve the special needs of these families.

Section 501 of S. 2049 would also be amended by adding a new subsection (j) to cover insurance of refinanced mortgages meeting specified requirements. Under this new subsection, the Secretary would be authorized to insure any mortgage covering a multifamily housing project to finance an existing mortgage on that project so as to assist in preserving and improving the quality of existing neighborhoods and properties and prevent the abandonment of such properties. Mortgages eligible for insurance under this subsection shall: (1) be secured by the property which is to be refinanced with the proceeds; (2) be in a principle amount not exceeding the sum of 90 percent of the appraised value of the property (97 percent in the case of cooperatives) plus the estimated cost of repairs; and (3) provide for complete amortization by periodic payments as prescribed by the Secretary.

No mortgage shall be insured under this section unless the Secretary determines (a) that the property to be refinanced is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program for neighborhood preservation, conservation, or rehabilitation; (b) that the property is basically sound or capable of repair without substantial rehabilitation; and (c) that, when refinancing involves an existing owner, maintenance services provided have been adequate.

The Secretary may extend the amortization term of any mortgage insured under this subsection if he determines that a rent increase would be reduced or avoided.

This section does not preclude the insurance of mortgages which involve projects containing units to be made available to low or moderate income families, or a change in the form of ownership, or manner of operation of the project.

Section 502. Multi-family housing assistance.—S. 2049 provides in Section 502 a program designed to reduce rentals for lower income families. This entire section would be deleted and a new Section 502 dealing with multi-family housing assistance inserted in its place.

Subsection (a) authorizes the Secretary to make, and to contract to make, periodic assistance payments on behalf of the owners of rental housing projects. This would be accomplished through payments to mortgages holding mortgages meeting the special requirements of this section.

Subsection (b) provides that assistance payments would be made only so long as the project is operated as a multi-family housing project and is subject to the mortgage which meets the requirements of and is insured under Subsection (j) or which has been assigned to the Secretary. Additionally, assistance payments would be made if the project is owned by a private non-profit corporation or other private non-profit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation and is financed under a State or local program which is providing assistance through loans, loan insurance, or tax abatement. Upon meeting the requirements above, assistance payments can be made for either new or existing construction and for all or part of a project.

Subsection (c) provides that the amount of any assistance payment shall not exceed the difference between total cost attributable to the project (principal, interest, mortgage insurance premiums, taxes, utilities, maintenance, management and operating costs as well as tenants services) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, grants or other income, non-residential tenants, interest or any direct project investments and other revenues as determined by the Secretary). Contracts can be amended by the Secretary to reflect the changes in project costs or revenues.

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

Subsection (e) provides that receiving the benefits of assistance payments is made conditional on the project owner operating the project in accordance with such 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 2 years.

Subsection (f) 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 cost of operating, maintaining and managing the project, exclusive of debt service. The fair market rental would be based on the cost of operating the project with payments on principal, interest, and mortgage insurance premium. The actual per unit rental would be based on local rent to income ratios determined by the locality (or sponsor if no such local ratios exist) and approved by the Secretary. Such ratios would take into account family income, family size and local income and spending patterns; however, no family would pay in excess of 25 percent of income for rent and the average rent to income ratio in each project should be at least 20 percent. The only exception to these provisions would be families who receive a majority of their income through federally-assisted public assistance who, two years after enactment of this provision, would be required to pay as a minimum the operating rental charge. This two year period would provide the time necessary for any changes in state or local welfare laws and regulations to carry out the section.

Subsection (g) would require the project owner to accumulate and to pay periodically to the Secretary any rental charges received in excess above the amounts specified in the assistance contract. The Secretary would deposit these in a revolving fund to be used to make additional assistance payments. Moneys not needed for current obligations could be invested in government obligations or government guaranteed obligations.

Subsection (h) would require that, in the

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 assistance payment in excess of 60 percent of the fair market rental charge. The requirement could be waived if, due to local or special circumstances, the project cannot meet this requirement. This subsection also requires the Secretary to prescribe regulation to insure that the availability of units in any new project shall be published, along with a rental range, in a daily newspaper of general circulation in the area where the project is located, and in a newspaper serving the center city if the project is located in a standard statistical metropolitan area.

Subsection (i) authorizes the appropriation of funds to carry out the provisions of this section including sums to make assistance payments under contracts entered into under this section. Such contract authority shall not exceed amounts approved in appropriation acts, and such contracts shall not exceed $75 million prior to the beginning of fiscal year 1970, and shall be increased by $125 million in fiscal year 1970, $250 million in fiscal year 1971, $280 million in fiscal year 1972, $350 million in fiscal year 1973, $400 million in fiscal year 1974 and $450 million in fiscal year 1975.

Subsection (j) authorizes the Secretary to insure a mortgage (including advances on such mortgages during construction) under this section to be occupied primarily by lower income tenants. Such a mortgage should meet the requirements of section 501 with the following exceptions. If the mortgage is executed by a cooperative, nonprofit corporation or association, a public agency, or a builder-seller, as (defined by the Secretary) the principal obligation shall not exceed: (a) if new construction, the estimated replacement cost of the project 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 dividend entity or an investor-sponsor who agrees to sell the project to a cooperative, the principal amount shall not exceed 90 percent of the above.

If a project is financed with a mortgage executed by other than a cooperative, nonprofit, or public agency and later sold to a cooperative or nonprofit association or corporation the Secretary under subsection (j)(4) is authorized to insure such a mortgage not exceeding the appraised value of the property at time of purchase, based on a mortgage amount on which debt service can be met from the income of the property, when operated on a non-profit basis, after payment of all operating expenses, taxes and reserves. Subsection (j)(5) permits the sale of individual units to eligible lower income families under such regulations as the Secretary may provide.

Subsection (k)(1) defines the term "tenant" to also include a member of a cooperative. It also defines the terms "rental" and "rental charge" to include the charges under the occupancy agreements between cooperative members and the cooperative.

Subsection (k)(2) defines the term "low income tenants" to mean tenants whose incomes do not exceed the median income for the area. The Secretary may make adjustments for family size and can raise or lower these ceilings if construction costs, unusually high or low median family incomes, or other factors warrant such action.

Subsection (k)(3) defines the term "tenant services" to include: counseling on household management, housekeeping, budgeting, money management, child care and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community sources, services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services for families living in housing projects assisted under this section.

Subsection (k)(4) defines "income to mean all income from each member of the family in the household, with the following exceptions: (1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and nonrecurring income; (2) an amount equal to $300 for each dependent and each secondary wage earner; (3) an amount equal to 5 percent of gross income (10 percent in the case of an elderly family); and (4) medical or other expenses as the Secretary approves for exclusion.

Subsection (k)(5) defines "cooperatives" as a non-profit corporation or a non-profit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities. Occupancy of the cooperative is restricted to members.

Subsection (l) authorizes the Secretary to enter into agreements with a state or its agency where such a state or agency contracts to make assistance payments, subject to this section and such rules and regulations adopted by the Secretary, with respect to a project approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by the state or agency should be administered by the Secretary according to the agreement between the states or agency and the Secretary. Before entering into such agreements to administer such state programs, the Secretary should determine that the state or agency will provide sufficient funds for the full period specified in the assistance payment contract.

TITLE II: PUBLIC AGENCY HOUSING ASSISTANCE

Title II of S. 2049 contains a complete rewrite of the United States Housing Act of 1937 and proposes a 13- -section revised "United States Housing Act of 1937". A series of amendments are proposed to this revised "United States Housing Act of 1937", which would result in the following.

Section 201. This section would amend and supersede the U.S. Housing Act of 1937.

Short title

Section 1. The Act would be cited as "The United States Housing Act of 1937".

Declaration of policy

Section 2. The Declaration of Policy of The United States Housing Act of 1937 would be amended as proposed in S. 2049, except the phrase in the existing 1937 Act including "responsibility for the establishment of rents and eligibility requirements, subject to the approval of the Secretary of HUD", would be retained.

Definitions

Section 3. This section defines "development", "operation", "acquisition cost", "State", "low income housing project" or "project", "families", "elderly families", and "displaced families" as proposed in S. 2049. The terms "low-income housing", "low-income families" and "public agency housing" are defined as follows:

The term "low-income housing" means well-designed but not luxurious housing in a local area, as determined by the Secretary, the construction cost of which does not exceed by more than 20 per centum the appropriate prototype construction costs for the area. Prototype construction costs (excluding the cost of land, demolition, and site improvements and non-dwelling facilities) shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area. The Secretary in determining an area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision 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 encouraging good design as an essential component of such housing and to producing housing which will be of such quality as 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. Occupancy shall be limited to families who at time of entry into a project are low-income families. Rents for low-income housing shall be determined by the public housing agency with the approval of the Secretary. The average rental for dwelling units administered by a public housing agency shall be not less than one-fifth of family income, and no rental for any single dwelling unit shall exceed one-fourth of family income. Income, or purposes of this Act, means income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (i) non-recurring income, as determined by the Secretary, and the income of dependent, full-time students shall be excluded; (ii) and amount equal to the sum of $300 for each dependent, $300 for each secondary wage earner, 5 per centum of the family's gross income (10 per centum in the case of elderly families), and those medical expenses of the family properly considered extraordinary shall be deducted; and (iii) the Secretary may allow further deductions in recognition or unusual circumstances.

The term "low-income families" means families the incomes of which do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median income for the area on the basis of his finding that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other relevant factors.

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

Loans

Section 4. This section is the same as Title II, Section 4 of S. 2049.

Annual contributions

Section 5. This section provides for annual contributions contract provisions in two parts: (1) capital debt requirements and (2) operating services and reserve funds.

(a) The Secretary would make annual contributions to public agencies to cover principal and interest payments payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low income project. This subsection is the same as Title II, Section 5(a) of S. 2049.

(b) This subsection is the same as Title II, Section 5(d) of S. 2049; and provides for collective coverage of two or more projects under one contract.

(c) This subsection is the same as Title II, Section 5(e) of S. 2049 which requires the approval of the local governing body of all public housing agency applications and the demonstration of the need for low income

housing, except that (ii) 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".

(d)(1) This subsection is almost identical to Title II, Section 9(a) of S. 2049, and provides for annual contributions for operating services. In addition to the annual contributions authorized under subsection (a), the Secretary may make contributions to public housing agencies to assist in the operation of their projects. Contributions under this subsection shall be payable annually and shall not exceed such amounts as the Secretary determines are required (A) to assure the low-income character of the projects involved and (B) to achieve adequate operating services and reserve funds. The Secretary may embody the provisions for annual contributions in accordance with this subsection in a contract guaranteeing their payment.

(2) This subsection is not included in S. 2049 and spells out the procedure for allocation of annual contributions for operating services. At the initial stage of development of each new low-income housing project, or in the case of existing projects at the earliest practicable time after the date of enactment of this section, the public housing agency operating the project shall determine, with the approval of the Secretary, appropriate and required operating services and reserve funds, including tenant services, based on the character and location of the project and the characteristics of the families to be housed. Services so determined shall constitute the base level of operating services of a public housing agency. If income from a project of a public housing agency will not be sufficient in any year to meet the agency's base level of operating services at projected costs for that year, the Secretary may make contributions to meet the residual cost. The commitment to maintain a base level of operating services shall be incorporated in an annual contributions contract. A public housing agency shall signify its base level of operating services requirements at the beginning of its operating year and at the time of the preparation of its annual budget. A public housing agency shall at the time of its reexamination of tenant income (at least every two years) reexamine its base level of operating services in order to determine the adequacy of the services provided for in the light of changing conditions and standards.

(e) This subsection authorizes the Secretary to use annual contributions to make improvements in existing projects by providing that in addition to the annual contributions authorized under subsection (a) and (d), the Secretary may make contributions to public housing agencies to effect such improvement in existing projects administered by such agencies as the Secretary determines are necessary to bring such projects up to minimum standards prescribed by the Secretary for new projects. Contributions under this subsection shall be payable annually and provision therefore may be embodied in a contract guaranteeing their payment.

(f) This subsection insures uniformity of treatment for tenants in low-income housing and provides that income limits for occupancy, rents, and other requirements applicable to low-income housing projects shall be determined without regard to whether annual contributions with respect to such projects are being provided pursuant to subsections (d) and (e).

(g) This subsection is the same as subsection 5(e) of S. 2049, and provides that any portion of an annual contributions payment made to a public housing agency pursuant to a contract under this section which is not used by the agency in the year for which it was made shall, under regulations prescribed by the Secretary, effect a pro tanto reduction in any subsequent annual contribution payment made to such agency.

(h) This subsection is the same as subsection 5(f) of S. 2049, granting the Secretary the authority to modify the rate of interest and other terms of contract to which he is a party, under certain conditions.

(i) (1) This subsection is in substitution of subsection 5 (c) of S. 2049, and provides for total contract authority, and for a portion of new authority to be utilized for Section 23 leased housing. The aggregate contracts for annual contributions entered into by the Secretary under subsection (a), and section 10 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971, shall not exceed $1,424,250,000 per annum, which limit shall be increased by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,0000 on July 1, 1974: *Provided*, That at least 30 per centum of the total amount of such contracts entered into in any fiscal year pursuant to new authority granted to the Secretary by any Act of Congress enacted on or after December 31, 1970, shall be entered into with respect to units of low-income housing in private accommodations provided under section 8 (section 23 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971). The Secretary is also authorized to enter into contracts for annual contributions (A) under subsection (d) aggregating not more than $300,000,000 per annum, and (B) under subsection (e) aggregating not more than $100,000,000 per annum.

(2) This subsection is the same as the second part of Subsection 5(c) of S. 2049, and provides that the Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into under subsection (a). It also provides that public housing agencies must comply with the requirements of section 8 (a) (1) concerning the provision of low-income housing in private accommodations. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section.

Contract provisions and requirements

Section 6. This Section would include the following subsections as proposed in S. 2049, with the changes noted.

(a) Same as Title II, subsection 6 (a) of S. 2049—covering (1) the right of the Secretary to include conditions in loans, annual contributions, contracts or other instruments or agreements, necessary to insure the low income character of the project (2) a contract condition requiring open space or playground, if deemed necessary by the Secretary, and (3) a contract condition that no highrise elevator projects, except for elderly, shall be developed for families with children, unless the Secretary determines there is no practical alternative.

(b) This subsection is in substitution for subsection 6(b) of S. 2049, and provides that every contract made pursuant to this Act for loans (other than preliminary loans) and annual contributions shall provide that the construction cost of the project (excluding the cost of land, demolition, site improvement, non-dwelling facilities, and the cost of relocation assistance) on which the computation of any annual contributions under this Act may be based shall not exceed by more than 20 per centum the appropriate prototype cost for the area, except where the Secretary determines (on a project-by-project basis) that this limitation should not be applied to the project because of special considerations.

(c) This subsection is the same as subsection 6(c) (2) and (3) of S. 2049, requiring (1) Certification and two-year review of regulations and (2) notification procedures for ineligible applicants.

(d) This subsection is a substitute for subsection 6(d) of S. 2049 providing that all new public agency assisted housing would pay full real and personal property taxes levied or imposed by a state, city, county, or other political subdivision. It would further provide that existing public housing developments not now paying such full taxes would proceed to make increased tax payments on a fixed level, annual basis until they are paying full taxes, at a rate of at least 10 percent increase a year, but reaching a full level tax payment within at least ten years. Estimates for increasing annual contribution contracts to cover full property taxes in existing projects would be submitted by the Secretary within six months after enactment of this Act.

(e) Subsection 6(e) of S. 2049 is deleted; conditions for reduction of subsequent annual contributions are covered under subsection 5(g). The new subsection 6(e) is the same as subsection 6(f) of S. 2049, covering conditions in the event of default.

(f) This would be a new subsection providing that after January 1, 1975, a family receiving the major portion of its income from public assistance shall pay rent at least equal to the operating costs attributable to its housing unit, including utilities. Operating costs shall mean all costs except for principal and interest payments on capital debt.

(g) This would be a new section providing that if the Secretary and the public housing agency jointly agree that an existing project is obsolete with respect to physical condition or location, that the Secretary can make a capital grant to pay off the indebtedness so that the project can be demolished or sold. The capital grant would cover the cost of demolition, if required. The local public agency would be required to provide replacement or relocation housing for existing tenants. A capital grant authorization of $100 million is provided for this purpose, to remain available until expended.

Congregate housing

Section 7. This section is the same as Title II, Section 7 of S. 2049, except for the final sentence, which is revised to read: "Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing shall be considered as one of the costs of the project, except that only up to 25 percent of the cost of providing food and service, shall be included."

Low-income housing in private accommodations

Section 8. This section is the same as Title II, Section 8 of S. 2049.

Section 9. This section of S. 2049 is deleted; operating service contributions are covered under Section 5.

Homeownership for low-income families

Section 9. This section is in substitution for Title II, Section 10 of S. 2049 and sets forth the terms and conditions for homeownership under the public agency low-income housing program. It is the same as Section 10 of S. 2049, except for the following major changes:

(a) The rate of interest for a mortgage is the same as that under the FHA Section 402 homeownership program, or the rate on the public housing agency's principal, whichever is "applicable" (S. 2049 provides for the "greater" interest rate);

The home purchaser concept of the existing Turnkey III housing program is extended by providing an alternate method for a low-income family to achieve homeownership;

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 real property tax payments (c):

Upon sale of any unit, the family would be required to pay from the sales proceeds, if sufficient, any subsidy which has covered principal.

The conditions for disposition of a housing development, either for sale to low-income tenant purchasers, or to non-profit, or cooperative purchasers shall include a requirement that any necessary repairs or improvements be made prior to disposition of the property. The Secretary is authorized to provide supplemental annual contributions to cover the 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 capital cost and the loan, as well as prepaid expenses and closing costs.

General provisions

Section 10. This section is the same as Title II, Section 11 of S. 2049.

Financing low-income housing projects

Section 11. This section is the same as Title II, Section 12 of S. 2049.

Labor standards

Section 12. Section is the same as Title II, Section 13 of S. 2049.

Applicability of rental requirements

Section 202 of S. 2049 is deleted.

Exemption of mutual help projects from rental formula

Section 202 is the same as section 203 of S. 2049.

Repeal of specification requirements

Section 203 is the same as Section 204 of S. 2049.

Retroactive repeal of section 10(J)

Section 204. This section is the same as Title II, Section 205 of S. 2049.

Amendment to National Bank Act

Section 205. This section is the same as Title II, Section 206 or S. 2049.

Amendment to Lanham Act

Section 206. This section is the same as Title II, Section 207 of S. 2049.

Effective date of title II

Section 207. This section is in substitution for section 208 of S. 2049. Except as otherwise provided in Sections 201–202, the provisions of Title II shall be effective beginning on January 1, 1973, except that any adjustment in income eligibility or rent payment shall take place at the first regular reexamination of tenant income following January 1, 1973. Further, the Secretary is authorized to proceed immediately upon the effective date of this Act to execute "base level" operating assistance contract agreements with existing public housing agencies.

AMENDMENT No. 789

At the end of the bill insert the following new sections:

HOUSING GOALS AND ANNUAL HOUSING REPORT

SEC. 309. (a) Section 1601 of the Housing and Urban Development Act of 1968 is amended

(1) by striking out the section heading and inserting in lieu thereof the following: "Reaffirmation of National Goal; Development of State and Local Goals";

(2) by inserting "(a)" after "SEC. 1601."; and

(3) by adding at the end thereof the following new subsections:

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

(c) In order to facilitate the achievement of the national housing goal and provide a more precise basis for determining national housing requirements, the Secretary of Housing and Urban Development shall encourage (through the provision of planning 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 relocation or replacement housing 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 private 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) plans for the general location 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 "SEC. 1602."; and

(2) by adding at the end thereof a new subsection as follows:

"(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 realization of the goal referred to in section 1601. Revisions so reported shall take into account (1) State and local housing goals which have been developed and formulated as prescribed in section 1601 (c), and (2) community development needs pursuant to the Community Development Assistance Act of 1971. Requests to the Congress for appropriations or new authorizations to carry out Federally-assisted housing programs shall be in three-year increments and shall be accompanied by explanatory material indicating the manner in which the requests will further the realization of the goal referred to in section 1601."

(c) (1) Section 1603 of such Act is amended by redesignating paragraph (5) and (6) as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) include a contingency plan for the provision of required mortgage credit, setting forth proposed governmental actions to be carried out in the event of adverse mortgage credit conditions;

"(6) provide an analysis of changes affecting housing costs borne by occupants, together with recommended actions to reduce the cost of any inflationary elements;

"(7) provide an analysis of annual changes in the number and conditions of units in the national housing inventory;".

(2) Such section is further amended by adding at the end thereof the following: "As an aid in the preparation of such periodic reports, the Bureau of the Census shall make such annual surveys as the President deems necessary to obtain current information on the national housing inventory. Expenses incurred in the making of such surveys or portions thereof shall be reimbursable from the appropriation authorized under section 1604."

(d) Title XVI of such Act is amended by redesignating section 1604 as section 1605, and by inserting after section 1603 a new section as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 1604. There is authorized to be appropriated not to exceed $75,000,000 to carry out the provisions of sections 1601–1603. Sums so appropriated shall be available for expenses incurred in the preparation of the reports referred to in such sections; to provide such additional planning assistance to the States and localities as may be necessary, as determined by the Secretary of Housing and Urban Development, to carry out the provisions and purposes of section 1601(c); and to reimburse the Bureau of the Census for expenses incurred in the making of surveys pursuant to section 1603."

(e) Section 701(a) of the Housing Act of 1954 is amended by striking the next to last sentence of this section and inserting in lieu thereof the following: "Planning carried out with assistance under this section shall also include a housing element as part of the preparation of comprehensive land use plans. The development and formulation of State and local goals pursuant to title XVI of the Housing and Urban Development Act of 1968 shall be required as part of such a housing element. Consideration of housing needs and land use requirements for housing in each comprehensive plan shall take into account all available evidence of the assumptions and statistical bases upon which the projection of zoning, community facilities, and population growth is based, so that the housing needs of both the region and the local communities studies in the planning will be adequately covered in terms of existing and prospective in-migrant population growth."

PUBLIC SERVICE GRANTS

SEC. 310. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts to make, and to make annual grants to municipalities and other political subdivisions of States to assist such localities in meeting the increased cost of providing needed governmental services in connection with new federally assisted housing located in such localities. In no case shall a contract provide for such grants with respect to any such housing for a period in excess of ten years.

(b) A grant under this section shall not be made unless the Secretary has obtained assurances that the locality involved will maintain during the period of the contract a level of expenditures for governmental services at not less than its normal expenditures for such services prior to the execution of the contract. The amount of any annual grant under this section with respect to any housing shall not exceed an amount equal to the sum of (1) $250 multiplied by the number of dwelling units in such housing having less than three bedrooms, and (2) $400 multiplied by the number of dwelling units in such housing having three or more bedrooms.

(c) The Secretary is authorized to make such rules and regulations, and to adopt such procedures as he deems necessary or desirable to carry out this section.

(d) As used in this section, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(e) There are authorized to be appro-

priated such sums as may be necessary to carry out the provisions of this section, including the making of annual grants under contracts entered into under this section. The aggregate amount of contracts to make such grants shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $150,000,000 per annum prior to July 1, 1972, which maximum dollar amount shall be increased by $150,000,000 on July 1 of each of the years 1973 and 1974.

INCREASED AUTHORIZATION FOR REHABILITATION LOANS

SEC. 311. Section 312(d) of the Housing Act of 1964 is amended by striking out "$150,000,000" and inserting in lieu thereof "$200,000,000".

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 because of a lack of public or private organizations willing or able to sponsor, with or without Federal assistance, the housing requisite to meet their needs; and

(2) that there is a need to formulate criteria for identifying such areas as "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 submit to the Congress, at the earliest practicable date (in no event later than one year after the date of enactment of this Act), his recommendations for legislative and administrative actions necessary for implementing, within two years after such date, the policy stated in this section.

EXPANSION OF EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

SEC. 313. (a) Section 504(a) of the Housing and Urban Development Act of 1970 is amended to read as follows:

"(a) In carrying out activities under section 501, the Secretary shall undertake on an experimental basis a program to demonstrate the feasibility of providing families of low income with housing allowances to assist them in obtaining housing of their choice. For this purpose, the Secretary is authorized to make, subject to the limitations contained in section 501, monthly housing allowances to such families in localities determined by the Secretary as having an adequate supply of appropriate housing units."

(b) Section 504(b) of such Act is amended to read as follows:

"(b) The program undertaken pursuant to this section shall include the development and utilization of different types of housing allowances, and different techniques for providing such allowances to families of low income, in order that a wide variety of potentially effective types of and techniques for providing housing allowances may be tested and evaluated. Particular attention shall be given (1) to the impact of such allowances on rent levels for housing units of comparable size throughout the housing market and the extent to which any increased rent levels reflect improved housing services, and (2) to areas where no eligible housing sponsors (public or private) are providing housing assistance and in which there is a need for such housing assistance."

(c) Section 504(d) of such Act is amended by striking out "not to exceed $10,000,000 in each of the fiscal years 1972 and 1973" and inserting in lieu thereof "not to exceed $25,000,000 in each of the fiscal years 1972, 1973, and 1974".

(d) Section 504(e) of such Act is amended by striking out "1972 and 1973" and inserting in lieu thereof "1972, 1973, and 1974".

(e) Section 504(g) of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

A SECTION-BY-SECTION SUMMARY OF AMENDMENTS TO S. 2049, THE HOUSING SIMPLIFICATION AND CONSOLIDATION ACT OF 1971

Title III of S2049 provides for a series of amendments to existing law. This amendment, number 789, would add at the end of Title III the following new sections:

Section 309. Housing goals and annual housing report.—This section would amend Title X of the Housing and Urban Development Act of 1968 by creating a mechanism to update the housing goals and modifying the requirements of the annual housing goals report, especially relating to assisted housing.

It would authorize the Secretary of The Department of Housing and Urban Development to encourage the formulation of State and local housing goals (local goals usually based on Standard Statistical Metropolitan Area's) to provide a base for determining national housing requirements. This would be accomplished usually through the "701" Urban Planning Assistance Program. Such State and local goals would also include actions necessary to maintain the existing housing stock. Specific annual needs for subsidized housing on a five-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 how these figures will approach the assisted housing goals.

The scope of the annual housing goals report would be expanded to include (a) an analysis of the effect of changes in housing costs and recommendations for reducing any inflationary increases; (b) an analysis of annual changes in the quantity and condition of the national housing inventory.

Seventy-five million dollars would be authorized: to fund the annual housing goals report; to assist in the formulation of state and local housing goals (either as a supplement to "701" assistance or as a separate grant); and to contract with the Bureau of Census to do an annual evaluation of the national housing inventory.

Section 310. Public Service Grants.—This section would authorize a new program of $150 million in new contract authority annually for three years for payments to localities to assist them offset increases in public services resulting from the provision of new federally-assisted housing within their communities. Contracts for such public service grants could not exceed ten years and could not exceed $250 per unit annually, except for units designed for large families (3 or more bedrooms) where such amount can be increased to $400 annually.

The section also requires the Secretary of the Department of Housing and Urban Development to obtain assurances from localities receiving such assistance that the locality will maintain a level of expenditures for governmental services at not less than its normal expenditures for such services prior to the execution of the contract.

Section 311. Increased authorization for rehabilitation loans.—This section would amend Section 312 of the Housing Act of 1964 to increase the annual amount of funds authorized for the Section 312 Rehabilitation Loan Program from 150 million dollars to 200 million dollars.

Section 312. Housing emergency areas.—Subsection (a) would state that it is the finding and declaration of Congress that a serious impediment exists in achieving the national housing goal 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 because of a lack of public or private organizations willing or able to sponsor, with or without federal assistance, such housing. The subsection further declares that there is a need to formulate criteria for identifying such housing areas as "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.

Subsection (b) would require the Secretary of the Department of Housing and Urban Development to submit not later than a year after the enactment of this act his recommendations for legislative and administrative actions necessary for implementing, within two years after such date, the policy stated in this section.

Section 313. Expansion of experimental housing allowance program.—This section amends Section 504 of the Housing and Urban Development Act of 1970 to authorize a demonstration on housing allowances to test methods in addition to a single housing allowance formula (i.e. the difference between 25% of a family's income and the maximum full market rental established in the locality). It would permit the development and utilization of different types of housing allowances and different techniques for implementation.

This title further provides for evaluation of the impact of such allowance on rent levels throughout the housing market area and the extent to which any increased rental levels reflect improved housing services and its use in areas where no eligible housing sponsor (public or private) is providing housing assistance and in which there is a need for such housing assistance.

The housing allowance contract authority is increased to $25 million for each of the next three fiscal years.

Mr. MONDALE. Mr. President, I am pleased to join with my distinguished colleague from Massachusetts (Mr. BROOKE) in introducing the Housing Reform Amendments Act of 1971 and wish to associate myself with his previous remarks. This legislation, which we jointly developed, will provide a long overdue revamping of our housing assistance programs to make them more responsive to the needs of the 1970's. Of particular importance to me is that the passage of these amendments would give added flexibility to the public housing and FHA low- and moderate-income housing programs.

Presently, these two programs are directed at two different income groups and this unintentionally has fostered the isolation of the lowest income families within public housing, further "ghettoizing" many of our center cities. Because of these programmatic restraints, public housing has become a villain in the minds of many people—its tenants, its neighbors, and even some of its supporters. This is a tragic occurrence because the public housing program is now the only major program to assist our low-income elderly, handicapped, and poverty families obtain safe and decent shelter.

The Housing Reform Amendments Act of 1971 fully recognizes this problem

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—now 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—from 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 reserved 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 large fatherless families, 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 city officials. For example, the Honorable Wes Uhlman, mayor of Seattle, Wash., in a recent speech discussed the effects of overconcentration 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, both on the neighboring community 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 such a proposal as Mayor Uhlman suggests.

Some efforts to bring about such integrated living arrangements already exist, but use State or local programs to supplement Federal subsidies or require 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, its implementation requires sufficient funds in all the programs to be used. Finally, the question of basic reform to the public housing program is ignored in these approaches.

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 most outstanding urban practitioners in our country. By using a State housing finance program, Federal subsidies and other State and Federal programs, Mr. Logue hopes 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 Saturday Review.

> I firmly believe that housing developments that cater exclusively to low income families are inherently undesirable since they are likely to produce large institutionalized apartheid pockets. 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 cross section of age groups 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 low- and moderate-income families in areas where little or no units are now being built. 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 an announcement that some form of assisted housing project is about to be built. Blackjack, Mo., Warren, Mich., San Jose, Calif., and Forest Hills, N.Y., are just a few examples of areas where housing has become a political issue.

It would be too simplistic to charge that the opposition to such housing was the result of bigotry and callousness. No, some of this 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 limited to the poorest of the poor and 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 maximum development costs to guarantee that this commitment can be fulfilled. These two changes, coupled with the increasing development of low density assisted projects in most communities will mean that the physical impact of such housing in a locality or neighborhood will be minimal or could actually improve the quality of the neighborhood.

Third, the bill provides that all new public projects would pay full local real estate taxes. Under current law, most public housing pays only a portion of these taxes and the community suffers a loss of potential revenue every time it agrees to provide a site for such housing. This, of course, has led to many opposing the development of public housing on economic grounds.

Fourth, the bill also recognizes that assisted housing might mean an influx of some families who require additional public services—additional or special educational, health manpower, or 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 built will 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 housing in certain communities or neighborhoods.

Last, the program contains a provision which would permit the Federal development of housing in areas where housing emergencies existed. These "housing emergency areas" would be defined as areas where, 2 years after the enactment of this bill, a large number of low- and moderate-income families reside or work who are in need of safe and decent housing, and there is no sponsor, private or public willing to provide this housing.

Mr. President, as the distinguished Senator from Massachusetts (Mr. BROOKE) mentioned in his statement, this legislation is actually a series of amendments to S. 2049, the administration's Housing Simplification and Consolidation Act of 1971. These amendments would, however, make major changes in the administration bill.

First. The housing reform amendments program is more consolidated than the administration bill in that it would establish major common elements covering the FHA-assisted housing programs and the public agency housing program. Such consolidation would cut Federal redtape and help the housing developer. A single subsidy program has common prototypes, income limits, definition of income, rent payments applying to all assisted programs, whereas the administration bill has susbtantial differences in all of these items between programs, except for prototypes. Moreover, the single subsidy program has a common policy for disbursing 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 eligible families to pay a percentage of their income for rent.

Second. The housing reform amendments provide a basis for developing housing which will provide shelter for a range of income groups, whereas 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; and it provides for a sound social environment by not segregating all of the lowest income and problem families in separate housing.

Third. The housing reform amendments provide for payment of full local real estate taxes by all federally assisted housing. Full tax payments are essential to enable local governments to meet at least part of the municipal service costs related to assist housing.

Fourth. The reform amendments recognize the importance of tenant services,

by making these services an integral part of the management operation of every assisted housing program, making them an eligible operating cost, against which the Federal contribution may be used if project income cannot cover essential tenant service costs. The administration bill retains "tenant services" as a grant program for all but public agency housing and as such is a "hit and miss" method of providing tenant services, based on special application for funds, separate from the regular management operation; and subject to separate appropriations funding by the Congress.

Fifth. The housing reform amendments retains the section 237 homeownership counseling program, while the administration bill eliminates it.

Sixth. The reform amendments would also expand the FHA homeownership program to low-income families by providing a total Federal contribution which could cover full debt service, if required.

Seventh. The reform amendments program provides for special "incentive grants" to general purpose governments to cover additional service costs related to assisted housing, such as school costs, thus encouraging localities to accept assisted housing. The administration bill does not include this provision.

Eighth. The reform program provides for realistic and flexible maximum development costs for assisted housing. These would be based on levels up to 120 percent of local construction cost prototypes and actual or appraised costs of land. Thus, special cost and other local conditions can be accommodated without sacrificing housing quality. The administration bill provides for housing development up to only 110 percent over prototype costs, leaving little room for accommodation to local needs and includes all costs of development—beyond construction—as part of the prototype computation.

Mr. President, this is the type of positive program we must develop to respond to the housing needs of this Nation. Yet it is not one which involves using new institutions or new mechanisms. It builds on those programs and devices which have worked and revamps, 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 them. I think it is very important that each of these bills be submitted for full discussion and that is why I am cosponsoring the Housing Reform Amendments Act while at the same time, continuing to support 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.

ANNOUNCEMENT OF HEARING ON NOMINATION

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 associate judge to the Supreme 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 6222, 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. 1828, the National Cancer Act of 1971. This bill grows out of the actions taken in both the Senate and House with respect to the great need to make further progress against this dread disease. As we all know, more than one-half million Americans perish each year from the ravages of cancer. If its toll continues unabated; 50 million Americans now living will contract cancer and about 35 million of them will die of cancer.

The Committee on Labor and Public Welfare last year appointed a distinguished panel of 26 Americans to advise it with respect to a national program to combat cancer. Their findings or recommendations—a summary of which I will include at the end of my remarks—laid the groundwork for the introduction of legislation in the Senate in order to substantially upgrade the ongoing Federal effort in cancer research. The panel recognized that for such an enhanced effort to be successful, there would have to be more effective planning, greater resources, and better evaluative techniques with respect to cancer research. Each of those elements is contained in the bill as agreed to by the conferees. There is provision for program planning. There are authorized $1.6 billion over the next 3 years. And there is authority for the creation of a new National Cancer Advisory Board, which has broad powers to assist in the evaluation of the program, and authority for the creation of a Presidentially appointed Cancer Advisory Panel.

S. 1828 also assures that the cancer program will be able to take full advantage of the fruits of biomedical research. The bill, as agreed to by the conferees, assures that the Director of the cancer program will have a high degree of independence and feasibility, while at the same time be an integral team member of the leadership in the National Institutes of Health. The bill also insures that with respect to budget, the Director of the cancer program will have direct access to the President of the United States. I believe, Mr. President, that this combination as between the program's relationship to the National Institutes of Health with direct access to the President, is in the Nation's interest, and will result in a highly effective program and, accordingly, I strongly support the conference report.

Now, 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 essentiality 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 respect to cancer. Both bills provide for 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 remaining issues of difference between the Senate and House bills. Three days later the President responded by indicating that—

> The most important point I can make about the cancer legislation concerns the need to pass it promptly. The differences which still exist are largely a matter of detail, and I urge the Conferees 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 direct my colleagues attention to one 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, who by virtue of their training, experience, 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 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 responsible for the Government's cancer effort into all discussions with the President concerning its progress.

The Senate version to which the President made reference was a compromise proposal offered by the Senate conferees which would have added the Director of the cancer program, the Director of the

NIH, and the Chairman of the National Cancer Advisory Board to the Attack Panel.

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 the conferees differs in several respects 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 concensus 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 budget independence in order to quickly exploit new research opportunities, and to mobilize, in the President's words, "a total national commitment" against cancer. Under this 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 without intervening review by anyone—although the Director of the National Institutes of Health and the Secretary of the Department of Health, Education, and Welfare will be permitted to comment on it. While the Director of the National Cancer Institute will not 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 taken from the House bill—a three-man "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 to rest 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 is still 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 necessary to achieve 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 bills. As chief sponsors of S. 1828, Senators KENNEDY, JAVITS, SCHWEIKER, and all the other members of the Health Subcommittee deserve special recognition for their contributions to this coordinated effort to find key solutions 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 compromise resulting from the inputs 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 $19.50 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 this 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 meaningful. A total of $1.5 billion is authorized over the next 3 years.

I urge that this conference report be unanimously adopted so that the efforts in the fight against cancer may get underway.

Mr. EAGLETON. Mr. President, I rise in support of the report of the House-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 documented. It is 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—more than 56 percent of all cancer deaths are in people over 65 years of age—but it is not restricted to our senior citizens. It is a killer of the young also, being the largest cause of death—excluding accidents—among those 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 in 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 52,000 patients 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 has to be applied to the development of new treatment methods.

A national program for the conquest of cancer has become essential if we are to exploit fully 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. The President has responded to this congressional initiative by pledging the cooperation of the administration in the effort to develop an effectve research structure and adequate funds to cure cancer. With 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 avoid undue fragmentation 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 Institute will be given the necessary priorities and funding to maintain a single coordinated national program—a vast new national effort.

I am confident that enactment of this legislation will produce a renewed commitment to ridding our Nation of the scourge of cancer.

Mr. RANDOLPH. Mr. President, I am gratified that agreement has been reached, both in the Congress and in the executive branch, on legislation to accelerate the fight against mankind's most feared disease, cancer.

I join with the loved ones 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.

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. Dr. Frank J. Rauscher, of the National Cancer Institute, says it now appears possible that the current death toll from cancer in the United States—now 330,000—can be cut by one-third by the year 1980, and by two-thirds by the turn of the next century. With the geometric acceleration of our accumulation

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 bureaucratic entanglement that has 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, if pain and suffering can be eased, 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 National Cancer Act, on 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.

As a sponsor of 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-destroying disease. 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 landmark 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-sought 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 potential for discovering 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. Not only has such a low priority been given to cancer research, but cutbacks in research programs were being called for by the administration. Yet the incidence of cancer across America has been increasing.

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 that now will strike two of every three families over the years.

The National Cancer Act of 1971 retains the original intent of the Senate that Federal efforts toward the conquest of cancer be kept in full public view, without intervening layers of Federal bureaucracy. It provides that the Director of the National Cancer Institute shall now be appointed by the President and shall report directly to him on budget matters, but that to insure the cross-fertilization of basic research in all health fields the NCI shall remain in the National Institutes of Health.

But to assure that a comprehensive and effective national cancer program is now undertaken, the act calls for the establishment of a 23-member National Cancer Advisory Board, including officials of Federal agencies with direct program responsibilities as well as highly qualified scientists and physicians appointed by the President. And a three-member President's Cancer Panel is to be appointed to closely monitor the development and execution of the national cancer program, and to make periodic reports to the President.

And the urgent need to exploit scientific leads in discovering a cancer cure is 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 treatment 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 be backed up by essential finacial resources, $1.5 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 national 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. 1874, on the children's dental health care, in the third paragraph, line 7 of the first page, "56" ought to be "26", and 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. 1874 which creates a dental health program for children and also adds a new section to the Lead-Based Paint Poisoning Prevention Act.

Senators have discussed the merits of the dental health program. I will not take the Senate's time except to add my belief that this is an important and necessary provision.

I would like to concentrate my remarks on the provision adding 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 Preventive Act, Public Law 91–695, has been interpreted so that grants can go only to local units of Government.

Quite obviously, it would be a needless and wasteful duplication for a local unit of government in Delaware to set up the administrative machinery necessary 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. 1874 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, I ask unanimous consent that a letter written to me by Dr. Albert L. Ingram, Jr., secretary of the Delaware Department of Health and Social Services, be printed in the RECORD at the conclusion of my remarks.

Dr. Ingram'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. Ingram 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 apparently 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 his successful effort in bringing this problem to the attention of the Committee on Labor and Public Welfare.

In closing, Mr. President, I wish to restate my support for this provision and I urge its approval by the Senate.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

WILMINGTON, DEL.,
November 17, 1971.

Hon. J. CALEB BOGGS,
U.S. Senator from Delaware,
New Senate Office Building,
Washington, D.C.

MY DEAR SENATOR BOGGS: The State of Delaware is by law responsible through its Department of Health and Social Services for carrying out all health services in the State including local 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 Based Paint Poisoning 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.

Our State already has the equipment to do the testing. Our need is grant funds to implement a program. We have submitted an application for a grant to 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. Rhode Island's services to local citizens is provided in the same way as Delaware. We would very much favor an amendment to P.L. 91–695 which would permit grants to states involved in 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 brain damage will occur.

Your assistance is deeply appreciated.

Respectfully yours,
ALBERT L. INGRAM, JR., M.D.,
Secretary.

Mr. MATHIAS. 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 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 why is this? Over half of 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 among children from 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 coming 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, even more rapid progress could be achieved through more extensive use of dentist's assistants and dental hygienists and through greater emphasis on preventive 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 $113 million over a 3-year period. 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 financing of a number of pilot 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 much from these projects as to how care for large numbers of children can be made the most efficient and effective.

Another important provision of the bill, of course, is the authorization of $9 million for a Federal matching program to assist communities which wish to fluoridate their water supply.

Taken together, the provisions of this bill should help substantially to reduce the incidence of dental problems, as well as pave the way for more preventive dental care. Passage and implementation of this bill would represent a sound investment in the health of our Nation. I urge my colleagues to support it.

Mr. BEALL. Mr. President, as a cosponsor 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.

The Federal Government spent $208 million in 1969 for dental treatment for welfare recipients.

Of the total $142 million authorized, $50 milion 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 the children under age 15 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 needed care in the early years. In so doing, we would be practicing preventive care in the dental area, and the value of preventive care in this area is unquestionable. Periodic checkups and proper dental hygiene can prevent 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 dentists and dental students on how to best utilize such auxiliaries. As Dean John Salley of the Maryland University School of Dentistry, who is president of the American Association of Dental Schools, told me:

> 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 Baltimore, 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 auxiliaries. 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, undesirable limitations on the amount of time each student will work in the team project may result.

Third, the bill would authorize communities, if they wish, grants 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

in Maryland. This should be accomplished in two ways: (a) education of the dentist in more effective utilization of dental auxiliaries and (b) creation of educational opportunities in dental hygiene, dental assisting and dental laboratory technology.

In the western part of the State where I make my home, the need for increased dental services in Allegany-Garrett Counties has been identified as the area's No. 1 health need. I believe that this measure will go a long way in helping these counties, and other areas of my State to meet the unmet dental needs of low-income children as well as provide the support necessary to help assure the Nation of the needed dental manpower to meet the dental requirements of our population.

Mr. President, I believe this is an important and much needed bill and I urge its enactment.

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 young 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 heartbreaking decay of precious teeth that nature can never replace.

And you sadly see, too misshapen mouths that, if uncorrected, will sentence a child 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, it is the type of health care need which parents are most inclined to postpone or to ignore entirely, except in an emergency.

In the meantime irreplacable 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 health 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 dentist. The travel and the dental care are costly and discourage treatment.

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 cited the view of the American Dental Association that—

> Experience with programs such as those proposed by S. 1874 is absolutely essential if the profession is to be able to develop 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. BAKER. Mr. President, I am delighted that the Senate has today approved S. 1874, the Children's Dental Health Act of 1971, and I want to commend the distinguished Senator from Washington (Mr. MAGNUSON) and the members of the Committee on Labor and Public Welfare for their diligent work on this measure which has enabled the Senate to act on it before adjournment.

At this point in time, when we are in the process of thoroughly studying our health care system and devising legislation to provide for the training of health personnel, it is important that we not neglect dental health, which is such an important part of the total health of the individual.

S. 1874 provides authorizations which would permit the Federal Government to fund programs of dental care for preschool and school age children who are unable to obtain such services. These programs will be of invaluable assistance to the State of Tennessee in its continuing efforts to upgrade the dental health of children from low-income families.

I strongly support this measure and I am hopeful that it can be enacted into law at the earliest possible time.

Mr. KENNEDY. Mr. President, I am very pleased that the children's dental health bill, S. 1874, introduced by the distinguished chairman of the Labor-HEW Appropriations Subcommittee, is about to be brought to the floor for a vote.

Dental health is a major cause of systemic disease and disability among our population. Many dental health problems, particularly caries, 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 authorizes $50 million for pilot dental care projects providing preventive, corrective, and followup care to 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 dental auxiliary 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 program and 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 ages.

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 children. This act emphasizes 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 could be taken in order 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:

LIST OF ORGANIZATIONS

American Academy of Pediatrics.
American Association for the Advancement of Science.
American Association of Dental Schools.
American Association of Industrial Dentists.
American Association of Public Health Dentists.
American College of Dentists.
American Commission on Community Health Services.
American Dental Association.
American Dental Health Society.
American Dental Hygienists Association.
American Federation of Labor and Congress of Industrial Organizations.
American Heart Association.
American Hospital Association.
American Institute of Nutrition.
American Legion.
American Medical Association.
American Nurses Association.
American Osteopathic Association.
American Pharmaceutical Association.
American Public Health Association.
American Public Welfare Assocation.

American School Health Association.
American Society of Dentistry for Children.
American Veterinary Medical Association.
American Water Works Association.
Association of Public Health Veterinarians.
Association of State and Territorial Health Officers.
Canadian Dental Association.
Canadian Medical Association.
College of American Pathologists.
Federation of American Societies for Experimental Biology.
Federation Dentaire Internationale.
Great Britain Ministry of Health.
Health League of Canada.
Inter-Association Committee on Health.
National Congress of Parents and Teachers.
National Education Association.
National Institute of Municipal Law Officers.
National Research Council.
Office of Civil Defense.
Pan American Health Organization.
U.S. Department of Agriculture.
U.S. Department of Defense.
U.S. Department of Health, Education and Welfare.
World Health Organization.

Mr. President, I am confident this measure will not only pass the Senate, but will receive an overwhelming endorsement. I believe the people of this country and their representatives in Congress recognize the need for and potential of this legislation.

Mr. JAVITS. Mr. President, I strongly support the Children's Dental Health Act, S. 1874. This legislation—authored by the Senator from Washington (Mr. MAGNUSON) and of which I am a cosponsor—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 followup care to children. These dental projects will not provide care to all children or even to all economically disadvantaged children. We have neither the funds nor the manpower to set out upon such an ambitious course. 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 he lives in 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 save a sizable proportion of 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 wishing to fluoridate their water supplies. The effectiveness and safety of fluoridation in preventing tooth decay has been demonstrated again and again and 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 its 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 concerned with public health, concluded that the adjustment of the fluoride content of water supplies to a concentration optimal for dental health is a safe and beneficial procedure with no detrimental affects of any kind. In addition, long-term health studies in cities having controlled fluoridation continue to attest to the effectiveness and safety of fluoridation. Also, this bill would not require any school or community to fluoridate its water. What the bill would do is assist those schools and communities which decide—on their own—that they wished to fluoridate their water.

We must not only improve our dental care delivery system, but also train much larger numbers of dental health personnel. While we must continue to increase our supply of dentists, we can no longer rely upon dentists alone to provide dental care. The bill authorizes $57 million over 3 years to train new dental auxiliaries and thus improve our capacity for meeting increased demands for dental services. In addition, $26 million is authorized to train dentists and dental students to work with auxiliary personnel. We will thus be provided 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.

For both philosophical and practical reasons, dental auxiliaries assume today more importance than ever before in our history.

We know there are a number of dental care duties that auxiliaries can perform and that they can be educated in a much shorter period of time, and at much less expense than a dentist. We know that a dentist with just one well-trained auxiliary can stretch his productivity by more than 50 percent.

If our shortage of dentists is acute, the shortage of dental auxiliaries is even more critical. At the present time, there are some 18,000 full-time—or full-time equivalent—dental hygienists in practice. This gives a ratio of one hygienist to every five or six dentists. At a minimum, the desirable ratio should be one hygienist for every two dentists.

The numerical shortage of trained dental assistants is even worse. Presently, there are some 103,000 dental assistants in practice, giving a ratio of about 1 to 1 with respect to dentists. A minimally desirable ratio would be two assistants for every dentist.

The third auxiliary, the dental laboratory technician, does not engage in chairside care nor is he normally employed directly by the dentists. His work, however, is vital and the shortage here is also quite severe.

Based on the current graduation rate, the deficit by 1980 for these three auxiliaries with respect to the desirable ratios will be 25,000 hygenists, 137,000 assistants, and 23,500 technicians.

The bill would help move us toward achievement of the proper ratios in an accelerated way.

The next, logical step in the attempt to stretch dentists' productivity—and as provided for by his bill—is to institute, on a much broader scale than has heretofore existed, programing to instruct both the practicing dentist and the dental student on how to work most effectively with auxiliaries and thus create and use the most effective dental team possible.

Given what we know about the potential to be realized from effective use of auxiliaries, it would be logical to assume that no dental student is permitted to graduate today without intensive instruction in this subject area. In fact, this is not so. Current surveys indicate that almost no first- or second-year students receive it, and that few third-year students have such training. Moreover, senior students have far less of it than necessary.

This relative inattention lies in the fiscal crisis that has gripped the dental education system for some years now. The lack of such education during school years—coupled with the shortage of auxiliary personnel—goes far toward explaining why there are still some 15,000 dentists who practice without auxiliaries. This legislation would enable us to change this and increase the availability of dental care in a relatively short period of time.

Mr. MAGNUSON. Mr. President, as the author of the Children's Dental Health Act of 1971 (S. 1874) I am extremely gratified by the wide support which this measure has received from my Senate colleagues on both sides of the aisle, from the professional dental community and from the public. I especially wish to thank the very able chairman of the Health Subcommittee for his efforts in behalf of this legislation. As one of the outstanding leaders in our efforts to improve the Nation's health, Senator KENNEDY's support for my bill has been invaluable. Similarly essential has been the support of the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS) and of the distinguished senior Republican member of that committee (Mr. JAVITS).

Mr. President, the Children's Dental Health Act has four major components, each of which will play an essential part in the comprehensive attack on dental diseases which this bill, for the first time, will make possible. Section 1101 will authorize $50 million to establish and carry out projects to provide comprehensive preventive, corrective and followup care to economically disadvantaged children. Section 1102 will authorize $9 million to be used as matching grants to communities and public schools which voluntarily determine they wish to fluoridate their water supplies. Section 1103 will authorize $57 million to train dental auxiliaries. And section 1104 will authorize $26 million to provide for the training of dentists and dental students in the effective utilization of dental auxiliaries.

Mr. President, the urgent need for the dental care projects authorized in the first section of this legislation cannot be doubted. In its just published study entitled "Lengthening Shadows" the Council on Pediatric Practice of the American

Academy of Pediatrics reports that: "Dental disease is nearly universal in children." Likewise, in its report to the President the 1970 White House Conference on Children concluded that—

Oral diseases are the most prevalent chronic diseases in the United States today, affecting everyone during his lifetime.

By age 2 half of America's children have decayed teeth. By the time he enters school the average child has three decayed teeth and by his 15th year he has 11 decayed, missing, or filled teeth. And—more often than not—those are 11 decayed or missing teeth, rather than filled teeth, for over half of all our children have never been to a dentist. This proportion is even higher among youngsters living in rural areas. But, by far, the greatest need is among children from low-income families—those who would be most directly benefited by section 1101 of S. 1874. Three-fourths of all youngsters in families with annual incomes under $2,000 and two-thirds of all those from families earning less than $4,000 per year have never visited a dentist. As a result of this gross neglect of poor children's dental health, they are five times more likely to have untreated decayed teeth than is the average youngster. Tragically, among these underprivileged children, 97 out of every 100 dental cavities go unchecked. That is a shocking statistic which every Senator will agree, I am sure, is completely unacceptable.

Mr. President, the second section of this bill would make it possible for the American people to save a sizable share of the $4 billion which they are spending every year on corrective dental care. This section will provide $9 million for Federal matching grants to public schools and communities which wish to fluoridate their water supplies. The effectiveness of fluoridation in reducing dental problems has been dramatically demonstrated again and again.

For example, a 12-year study of fluoridation in Milwaukee, Wis., published in 1969, showed decay reductions ranging from a high of 67 percent at age 7 to 53 percent at age 14. In all age groups the rate of decay reduction exceeded 50 percent. Another study made between 1954 and 1964 in Philadelphia showed an average two-thirds reduction in cavities among those schoolchildren who drank fluoridated water from birth. Because of conclusive evidence like this, fluoridation has been endorsed as an effective and safe method of preventive dental care by a great number of Government, professional, and scientific organizations including the American Dental Association, the American Medical Association, the American Hospital Association, the Department of Defense, and the Department of Health, Education, and Welfare. Mr. President, I submit at this time a more complete list of these organizations and ask unanimous consent that it be printed at the conclusion of my remarks.

Before I move on to a review of the other sections of S. 1874, I want to emphasize that this bill would not require any school or community to fluoridate its water supply. It would only make financial assistance available to those public schools and communities which decided that they wished to fluoridate their water supplies.

Mr. President, section 1103 and 1104 of the Children's Dental Health Act focus upon the critical dental manpower shortage which this Nation now faces and which promises to grow even more acute in coming years unless we act now.

Population growth, increased public awareness of the importance of dental health, and expanded accessability to dental care through private insurance plans all point toward a rising demand for dental care. Add to these factors the possibility that a national health insurance program, including coverage of dental care, will be implemented and predictions of future demand escalate sharply.

If we are to meet this future demand, then we must not only improve our dental care delivery system but we must also train much larger numbers of dental health personnel. And while we must continue to increase our supply of dentists, we can no longer rely upon dentists alone to provide dental care. This point was emphasized in testimony presented in 1970 to the House Health Subcommittee by the American Dental Association, the American Association of Dental Schools, the American Dental Hygienists Association and the American Dental Assistants Association. In a joint statement they said:

As this Committee well knows, the drive to produce more dentists is complicated by the time lag, as much as 12 years in duration, between the planning stages of a new dental school and the year it graduates its first class. A time lag of such duration does not occur with supportive personnel in the dental field. In addition, there is increasing understanding within dentistry of the fact that the hygienist and the assistant can and should perform additional functions. Concentration on programs within these areas, then, is both professionally and pragmatically desirable.

But, despite the need for—and the desirability of—training greatly increased numbers of these dental auxiliaries, our present training efforts are falling short of filling the need. Currently, there is only one hygienist for every six practicing dentists, although professional groups advise that the minimum desirable ratio is one hygienist for every two dentists. If we are to provide for even that minimum ratio by 1980, we must graduate at least 48,000 new hygienists during this decade. However, at the current rate, we will train only 23,000. Thus, we will have a net deficit of 25,000 hygienists in 1980. Similar deficits in dental assistants and dental laboratory technicians will prevail unless our current training efforts are sharply accelerated. These 1980 deficits are predicted to be 137,000 for dental assistants and 23,500 for laboratory technicians.

The third section of the Children's Dental Health Act addresses this need by authorizing $57 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 improve our capacity for meeting the increased demand for dental services we know lies ahead.

The fourth—and final—major section of S. 1874 would authorize $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.

EXHIBIT 1

NATIONAL ORGANIZATIONS ENDORSING FLUORIDATION

American Academy of Pediatrics.
American Association for the Advancement of Science.
American Association of Dental Schools.
American Association of Industrial Dentists.
American Association of Public Health Dentists.
American College of Dentists.
American Commission on Community Health Services.
American Dental Association.
American Dental Health Society.
American Dental Hygienists' Association.
American Federation of Labor and Congress of Industrial Organizations.
American Heart Association.
American Hospital Association.
American Institute of Nutrition.
American Legion.
American Medical Association.
American Nurses Association.
American Osteopathic Association.
American Pharmaceutical Association.
American Public Health Association.
American Public Welfare Association.
American School Health Association.
American Society of Dentistry for Children
American Veterinary Medical Association.
American Water Works Association.
Association of Public Health Veterinarians.
Association of State and Territorial Health Officers.
Canadian Dental Association.
Canadian Medical Association.
College of American Pathologists.
Federation of American Societies for Experimental Biology.
Federation Dentaire Internationale.
Great Britain Ministry of Health.
Health League of Canada.
Inter-Association Committee on Health.
National Congress of Parents and Teachers.
National Education Association.
National Institute of Municipal Law Officers.
National Research Council.
Office of Civil Defense.
Pan American Health Organization.
U.S. Department of Agriculture.
U.S. Department of Defense.
U.S. Department of Health, Education, and Welfare.
World Health Organization.

CONQUEST OF CANCER—S. 1828—CONFERENCE REPORT

The PRESIDING OFFICER. It is now 10:30 a.m. and, under the previous order, the Senate will proceed to vote on the conference report on S. 1828. The yeas

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. HARRIS), 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. TUNNEY), 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 "yea."

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. PERCY), 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 and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "yea."

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

[No. 444 Leg.]

YEAS—85

Aiken	Ervin	Montoya
Allen	Fannin	Moss
Allott	Fong	Nelson
Baker	Fulbright	Packwood
Bayh	Gambrell	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Pell
Bentsen	Hansen	Proxmire
Bible	Hart	Randolph
Boggs	Hatfield	Ribicoff
Brock	Hollings	Roth
Brooke	Hruska	Saxbe
Buckley	Hughes	Schweiker
Burdick	Humphrey	Scott
Byrd, W. Va.	Inouye	Sparkman
Cannon	Jackson	Spong
Case	Javits	Stennis
Chiles	Jordan, N.C.	Stevens
Church	Jordan, Idaho	Stevenson
Cook	Kennedy	Symington
Cooper	Long	Taft
Cotton	Magnuson	Talmadge
Cranston	Mansfield	Thurmond
Curtis	Mathias	Tower
Dole	McGee	Weicker
Dominick	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Metcalf	
Ellender	Miller	

NAYS—0

NOT VOTING—15

Anderson	Harris	Muskie
Bennett	Hartke	Percy
Byrd, Va.	McClellan	Smith
Goldwater	Mondale	Stafford
Gravel	Mundt	Tunney

So the conference report was agreed to.

CHILDREN'S DENTAL HEALTH ACT

The PRESIDING OFFICER (Mr. BENTSEN). In accordance with the previous order, the Senate 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 dental care through 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 read as follows:

Amend S. 1874 by striking the following: On 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 agreeing 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 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 the Senator from Alabama, if he wants it, to explain the amendment. I know there is no time, but if he wanted to request it, I certainly would not object. If he does not care to explain the amendment, then I suggest we proceed with the vote.

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

Mr. KENNEDY. I yield.

Mr. PASTORE. 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 agreeable to the Senator from Alabama, who is the proponent of the amendment.

Mr. ALLEN. Yes.

Mr. PASTORE. And if it is agreeable to the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, in view of what has developed, I would suggest that the vote on passage of S. 1874 not occur until after the vote on cloture, because everyone is on notice that the vote on cloture will occur at 12 o'clock, and we need that hour in between for debate.

Mr. PASTORE. If this goes beyond 11 a.m. How about 2 minutes?

Mr. KENNEDY. Would the majority leader permit a minute on each side? It is not a difficult issue to understand; 1 minute on each side?

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

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

Mr. MANSFIELD. Mr. President, 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, so that a full hour can be taken to debate the cloture motion, and that after the rollcall vote on the cloture motion the vote occur on the Allen amendment, to be followed immediately by the vote on the bill (S. 1874) itself.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. We do not have much choice.

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

Was the request of the Senator from Massachusetts for 5 minutes, to be equally divided?

Mr. KENNEDY. Yes; that is correct.

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

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

There is an 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 to the purposes of the bill. It leaves 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. They should not be forced 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 school board. But it would not 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 2 minutes.

Mr. President, there is a $9 million authorization in this bill. This is a matching program with the community. It will make available 80 percent Federal funds. There will also have to be participation on the part of the local community of 20 percent for any grants they receive.

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 fluoride program, some resources will be available at the national level to go ahead with fluoridation.

If 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 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 appropriations, that it will be less, but it can have an important voluntary impact on communities in this Nation. Approximately 95 percent of tooth decay occurs in children under 15 years of age. They do not 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 testimony, 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 second assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION—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.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. EAGLETON). The hour of 11 a.m. having arrived, under the unanimous consent agreement, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the confirmation of the nomination of William Rehnquist, to be an Associate Justice of the Supreme Court of the United States:

1. Hugh Scott
2. Paul Fannin
3. Clifford Hansen
4. Bill Brock
5. William Saxbe
6. Marlow Cook
7. Howard Baker
8. James Pearson
9. Roman Hruska
10. Glenn Beall
11. Robert Dole
12. Barry Goldwater
13. Henry Bellmon
14. Carl Curtis
15. Ted Stevens
16. Norris Cotton
17. Mark Hatfield
18. Robert Griffin
19. James Eastland
20. Gordon Allott
21. Ernest Hollings
22. John Tower
23. James Buckley
24. Edward J. Gurney
25. Len B. Jordan
26. Lowell Weicker
27. Robert Taft, Jr.

The PRESIDING OFFICER. The time between now and 12 noon will be equally divided and controlled between the distinguished Senator from Indiana (Mr. BAYH) and the distinguished minority leader (Mr. SCOTT) or the designees thereof.

Who yields time?

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, so that we might get the hour's debate started prior to the cloture vote, I yield myself such time as may be necessary.

Mr. President, we are about to undertake a cloture vote, which is unique in Senate history—this effort to shut off debate. I have read the annals and had my staff read the annals, and this is the first time any of us have been able to find where a debate was labeled a filibuster before the first day had expired. There is no way in which the present discussion of the merits of the Supreme Court nominee can be described as a filibuster. I have listened with great interest to some of the strongest supporters of filibusters, who suggest now that the whole philosophy of the filibuster should change. It will be interesting to see whether, when other issues are presented, these colleagues are equally convinced that the filibuster has become outmoded.

The Senator from Indiana has not been a supporter of the filibuster, and on most occasions has voted to terminate debate. On all occasions when the debate has become unreasonable, I have urged that the will of the Senate be put.

Mr. President, here we are talking about a Supreme Court nominee, a Supreme Court nominee who is going to be on the Supreme Court for a quarter of a century, perhaps for three decades. To suggest before the first day of debate has transpired that a filibuster is in progress is, in my judgment, a rather weak argument to present to the Senate.

Mr. President, so that our colleagues may have something to base their judgment upon as to whether, indeed, we are talking about a filibuster or not, the Senator from Indiana would like to put into the RECORD at this time the length of debate on other Supreme Court nominees.

We heard the Senator from Massachusetts describe the other day that in one nomination there was about a 4-month debate, after which the Justice reached the Court.

The Senator from Indiana is not suggesting a 4-month debate, nor any debate of such duration, but, indeed, he does feel that we should have adequate time to answer the questions that have been raised.

The Fortas nomination followed a rather extended pattern. The nomination was made on the 26th of June; debate began not until the 24th of September. There were two cloture votes, and we found ourselves into early October, before the nomination was withdrawn. In fact, we were never allowed to discuss the nominee's merits. All the debate centered around the motion to take up the nomination. There was, of course, an equal delay on Judge Thornberry.

The Haynsworth nomination was made on the 18th of August. Debate began on the 13th. The vote was taken on the 21st of November—from the 13th of November to the 21st of November.

The Carswell nomination was made on the 19th of January; debate began on the 13th of March; and a final vote was not taken until April 8.

Today we find ourselves, on the 10th of December, in debate which began late in the afternoon of the 6th. I ask the Senate to look at the equity of this, regardless of how one feels on the merits. I admit very strongly that I feel, on the merits, that Mr. Rehnquist should not reach the Court, but I wonder whether one could adequately describe as a filibuster a debate which began late in the afternoon of the 6th, and a cloture motion was filed on the 8th, and on the morning of the 7th the distinguished minority whip was calling this a filibuster.

During the period of time that we have had to debate the nomination, I would like to call to the Senate's attention that we have considered several other important pieces of legislation.

Let me just read the list of matters which the Senate has considered during the time the nomination has been before us, to show that we have not even

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; conquest of cancer; 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 Supreme Court nomination.

I am not going to take too much of the Senate's time on the merits of whether they feel this is a filibuster or not, because I think most of our colleagues are going to vote really not on whether they feel this is a filibuster or not, but rather on the merits of the issue. The distinguished Senator from Alabama, 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 salute him for sticking to this particular principle, 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 NAACP urges that we vote against cloture because they feel so strongly about the Rehnquist nomination.

I feel that there have been significant questions raised in the past 12 hours. The distinguished minority leader read a telegram into the RECORD yesterday that arrived from somebody in London I had never heard of, who was a coclerk of Mr. Rehnquist. If we read—and I ask my colleagues not to take my word for it but to read the telegram of Mr. Donald Cronson, who was said to be a coclerk with Mr. Rehnquist—if we read the interpretation he put on that 1952 memorandum, and then read Mr. Rehnquist's interpretation of it as placed on the letter that we received the preceding day, if those do not raise questions that have not been raised before, which should be laid to rest, I have never seen any.

Mr. President, I say once again, just speaking for myself, I am not trying—and I do not think any of us who oppose Mr. Rehnquist are trying—to keep this matter from being voted upon, but to suggest in the early stages of debate that it might be a filibuster and that we want it to end so that we can go home just in order to meet our own personal conveniences, I think, is not in the finest traditions of the Senate.

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

Mr. BAYH. I yield.

Mr. FULBRIGHT. Mr. President, I associate myself with that comment. I remember how long the debate went on in the Carswell matter. I think that it was for several weeks. It does not matter exactly how long, but it was for a very long time. I am quite confident that the developments that occurred during the course of that time had much to do with the result.

Aside from the fact of whether one considers it to be a filibuster or considers it to be an extended discussion, I have had long experience with extended debate, if one wants to call it that. I have never voted for cloture, except on one occasion, on a foreign aid authorization measure. And on all other matters I have not voted for cloture.

I think the most significant function of the Senate is its capacity to precipitate thorough debate if it has sufficient time.

If we destroy the capacity of the Senate to discuss these important matters—and this is certainly an important matter—we will undermine the significance and influence of the Senate and it will have much less reason to exist.

As I said in my own comments about Mr. Rehnquist, my objection to him is primarily because of his lack of concern and lack of interest in the preservation of the constitutional system. I do not think that he feels the Senate has an important role to play.

On this matter of a filibuster, as the Senator mentioned, to treat the matter casually and to say this is a filibuster after only 2 or 3 days, I think, is an absurd interpretation of the concept of 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.

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 perceptive statement the Senator from Arkansas made on yesterday relative to the merits of the nomination.

I have not seen a more eloquent presentation of the importance of balance of power and the importance of this body and, indeed, the importance the Court could well play on unlimited executive power.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield as much time as he desires to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, let me say that I have listened with great interest to the remarks of the Senator from Indiana. I think the Senator will recall that I have asked him on several occasions over the last few days when he thought we could get to a vote. The Senator from Kentucky has gotten no more than a shrug of the shoulder, which means that there is no intention even to think about the necessity of a vote on this particular matter, that it will continue as long as it is possible for it to be continued.

I merely say that I think this is great. As a new Member of the Senate, I sit here and listen with great awe to the Senator from Indiana and the Senator from Arkansas talking about how long the debate should go on.

We had an amendment a week or so ago which was called the Pastore amendment. Under the unanimous-consent agreement, there was 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 handcuffs 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 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 Arkansas that his 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 limited to 6 hours 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 been carried out.

A Senator does not have to be here. The Senator from Kentucky knows that if he really feels strongly about a matter he could object to a limitation of time if 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 agreement 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 with 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. I have no argument about who former Justice Jackson's secretary was. However, when the Senator from Indiana read the article in the New York Times that talks about Donald Cronson, I wonder why he would say that Mr. 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 a connotation 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.

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. Mr. President, we deal 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 remarks of 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. Then when the nominee answers 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 continue to do so.

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. But if there are not very many, although a substantial majority, that favor cloture, he will continue his argument and no one will listen to him. 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 it is the desire of the Senator from Indiana, and I will be back the day after Christmas to accommodate him if necessary.

I think that now we have gotten to the point where we are running around in circles and arguing about what people said on yesterday and what people may say today.

I will only say that we are now getting very close to getting into a rather serious 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 the blatant remarks such as, "An examination raises the gravest questions of basic honesty."

I think this cuts pretty close to the line.

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 had said it. 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 a time limitation had been 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 things that must be accomplished and I am 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 REHNQUIST OPPOSED SEGREGATION

(By Anthony Lewis)

LONDON, December 9.—A former colleague of William H. Rehnquist said tonight that in 1952 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, concluding that the doctrine of segregation laid down by the Supreme Court in 1896 should be reaffirmed.

"Both of us," Mr. Cronson said, "personally thought at the time that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

INTERVIEWED BY PHONE

Earlier today, Mr. Cronson, an oil company executive in Europe, sent a cable to Mr. Rehnquist from London about his recollections. He then left for his home in Gstaad, Switzerland, and he was interviewed there by telephtone.

"To this day," Mr. Cronson said, "I am not exactly sure what Justice Jackson's views were—and if I were, I would not say. I think this whole business is completely improper. Such memoranda from law clerks to a Supreme Court Justice should never be published."

The Supreme Court considered the school segregation issue in 1952 and 1953 before finally deciding unanimously on May 17, 1954, to overrule the Plessy case and declared racial segregation unconstitutional. 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 have not engaged 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 perhaps adjourn this Congress. I think most people in America would be happy to see us adjourn, and I know of a few Members of Congress who 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 Post or Sunday's Post, or any other 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 wholeheartedly with him.

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 discussion 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 are under rules there which limit 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 significant 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. There are practically no legislatures 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 resurrect its traditional influence, especially in foreign policy, which has gotten us into so much trouble in recent years.

I can 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 we call it "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 perfectly adequate to 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 nomination.

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

Mr. FULBRIGHT. I yield.

Mr. BAYH. 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 this Chamber raised a challenge to 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 Kansas 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, 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 true 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 are ruled by dictators of one kind 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. COOK. I ask the question on the time of the Senator from Arizona.

The question 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 prone in background or any of their decisions, the decision he made on Mr. Rehnquist? 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 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 it, similar to what is trying 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 loose constructionist; he is not a strict constructionist of the Constitution. He is quite willing to believe the proposition that the Constitution is obsolete insofar as the responsibility of the legislative branch is concerned. His statements were very similar to those of Mr. Katzenbach, who came before our committee and said the Constitution is obsolete insofar as the power to make war is concerned. He said, "That is old fashioned. Today we move quickly."

I object to that.

I do not remember Chief Justice Burger saying anything like that. I like Chief Justice Burger. I have never known—I did not know then or know now—of any evidence that he views our constitutional system the way Mr. Rehnquist views it.

Incidentally, since the Senator brings that up, I spoke about yesterday's column on the great intellectual capacity 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 of 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 our national interest was concerned. But he was an intellectual, just as Mr. Kraft has described Mr. Rehnquist.

I have no objection to men of great intellect. They do not split infinitives. I do not mind a man who does 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 the influence of this body be preserved. I think the principle that we do not cut off debate is a sound one. The principal difference between the House and the Senate is our capacity for extended 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 want to be notified on those matters and 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 wary 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, but some that 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, I think, 1961, in which it was indicated that the executive ought to have more power insofar as war-making powers are concerned. I assume the Senator 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 will state it.

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 been charged to the Senator from Indiana. [Laughter.]

Remaining are 8 minutes to the Senator from Indiana and 17 minutes to the Senator from Arkansas.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FANNIN. Mr. President, when we are talking about the background and reputation of an individual, we usually go to the people who have been associated with him and who have worked with him. I am very proud to do so with William Rehnquist. Those who have been associated with him over the years certainly praise him highly, whether they be Democrats or Republicans.

There is a former colleague who has spoken about William Rehnquist when he found some of the papers in which he as well as Bill Rehnquist had been involved were under scrutiny. That is Donald Cronson, now in London, associated with a business enterprise there. I am quoting from a New York Times article in today's edition:

A former colleague of William H. Rehnquist said tonight that in 1952 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 Suprem Court.

"Both of us," Mr. Cronson said, "personally thought at the time, that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

I have read from the interview Mr. Cronson gave the reporter. I feel these are the actual experiences he had with Mr. Rehnquist.

I know that we had testimony, and the distinguished Senator from Indiana has great respect for the person I am going to speak about now——

Mr. BAYH. Mr. President, will the Senator yield for a quick question before he gets away from the Cronson matter?

Mr. FANNIN. Mr. President, how much time do I have remaining? I will yield on the Senator's time.

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes, the Senator from Indiana has 8 minutes.

Mr. FANNIN. Will the Senator take this out of his time?

Mr. BAYH. Let us forget it. The other side can ask questions on our time, but we cannot even make a comment on their time. That 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 and said, "I have known 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 practice law in Arizona, both in a professional capacity and since I have been on the bench, which I ascended in 1964.

Mr. Rehnquist's academic 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 as a lawyer. 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 outstanding professional skills but with dignity, intelligence, and integrity. 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 if he were sitting on 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 philosophy of civil rights or the Bill of Rights, or 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 outstanding men in the community.

There are many in Arizona, both on the Democratic side and on the Republican side, who have come forward with statements supporting 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 feel 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 in 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 they knew those statements were wrong, 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 such a splendid, impeccable record, 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 have failed, and I feel very confident that this man will be overwhelmingly approved by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. HRUSKA. 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 Senate floor has become relatively meaningless with regard to the issue being considered. This is why I will vote in favor of cloture today.

We could go on and on talking about Mr. Rehnquist, of course. Most of this would be sheer repetition, however—a devise that the record will show has already been used to excess. We have heard over and over about the nominee's alleged lack of devotion to civil rights, his alleged lack of sensitivity to human liberties, and even his alleged lack of candor and honesty. We have heard of his alleged unwillingness to disclose his

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 follows once, 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 full and free debate. It is instead a very obvious attempt to follow 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 exposition 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 bulldozing this man 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:

Nomination 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

Debate on floor begun, December 6.

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, when we talk about insufficient time to explore this nomination this sequence of events must be borne in mind.

Let us talk about another nomination for a moment. Mr. Butz, now 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 by 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 exploration. Have Senators had a chance to express their views, for the record or otherwise? An examination of the CONGRESSIONAL RECORD will show that the opponents of Mr. Rehnquist have been able to fill some 202 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 anyone and the fullest 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 and dedication to a cause in which they believe, 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 an issue only to see it resolved by 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 makeup 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, a former attorney in the Office of Legal Counsel who is now executive secretary of the Administrative Conference of the United States. Having served under four Assistant Attorneys General who headed 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 so valuable, that I ask 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 civil rights record, I believe that some comments of mine may be pertinent.

I served as an attorney in the Office of Legal Counsel of the Department of Justice for eight years (1961–65, 1967–71). In the latter period, which included two years under Mr. Rehnquist, I worked on most of the civil rights problems handled 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 or enforce the laws 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 head of the Office of Legal Counsel were shaped by a desire to please his superiors. No lawyer can be oblivious to the needs of his client, and the president's lawyer's lawyer is no exception. For any head of the Office of Legal Counsel there is an obvious tension between his role as adviser to and advocate for the Executive Branch and his role as the foremost interpreter and expounder 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 nonlegal 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 highly qualified for service on the Supreme Court and that the Senate should confirm his nomination.

RICHARD K. BERG.

ARLINGTON.

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 nonlegal considerations from the process of resolving a legal problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HRUSKA. One more minute, please?

Mr. FANNIN. I yield the Senator 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 wiretap in 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 wiretap in 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, 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

the opinions of Mr. Justice Jackson. They allege the nominee held different opinions or the same opinions, as the argument suits them.

What really happened? Only one other man living today, so far as we know, was there, and that is Mr. Cronson of London. A reporter from the Baltimore Sun called him, and Mr. Cronson said:

> We haven't even heard of this furor over here. We didn't know about this law clerk memorandum, but I have it. As a matter of fact, I wrote most of it.

As a matter of fact, as I have been arguing for over a week there were two memorandums. I had only a well-founded instinct as a lawyer that a Justice would want to know both sides. He did.

Then what does Mr. Cronson say? That Rehnquist has all these deplorable views attributed to him. Not at all. Mr. Cronson says that he and Mr. Rehnquist both personally thought at the time that Plessy against Fergusen was wrong and "We wrote the first memorandum to that effect."

That shoots the whole argument out of the water. Since they have elected to put everything that they had, all their eggs, into one fragile, melting basket, they find nothing to support their one remaining argument.

Mr. Rehnquist thought that law was bad, and he wrote some portion of these two memorandums, and the other man wrote some portion of the two memorandums.

There is no reason at all why the nomination should not be confirmed.

The PRESIDENT pro tempore. The time of the Senator has expired. Who yields time? The Senator from Indiana has 8 minutes.

Mr. BAYH. I yield myself 6 minutes.

Mr. President, I think it is important for the Senate to understand what is happening here. We are trying to invoke cloture. That is the issue; the merits of the nominee are not being debated.

Interestingly enough, it is my judgment that the charges that have been made by those in support of the nominee lend support to our contention that we have not had adequate debate. The distinguished minority leader just got through substantiating this. He talked about our coming up with an undated, unsigned memorandum. That memorandum, strangely enough, had the initials of the nominee at the bottom. Although he has written us three pages explaining his recollection of what was in that memorandum, he has not denied that he wrote it—has not denied it. I believe his recent letter actually acknowledges authorship.

Now this surrebuttal raises more questions. If this latest telegram is to be believed, why did not the nominee, in explaining the anti-Brown against Board of Education memorandum, mention that there had been a preceding memorandum? Why did he not mention that there was a man by the name of Cronson, who had been his coclerk? He said nothing about coauthorship. He did not say anything about somebody else expressing the views in the memorandum. Nothing.

I want to say, before going ahead, that I concur with the Senator from Pennsylvania; the Senator from Kentucky, no one will ever be able to answer these questions finally, I was not there. Nobody really knows what was in Justice Jackson's mind. But I will take issue whenever anybody who is going to be on the Supreme Court of the United States has the audacity to write the U.S. Senate a letter suggesting that the content of that memorandum was prepared to express the views of the late Justice Jackson. It just makes no sense at all.

I suggest that Justice Jackson believed exactly the opposite of the views that were expressed in that memorandum. That is what I take issue with, and I think these questions have not been laid to rest. They have not been laid to rest.

Why did not Mr. Rehnquist mention the presence of Mr. Cronson? Why did he suggest that he, indeed, did prepare these words in the memorandum for the Justice to use as his own statement of his own views at conference? I read in this morning's paper that the late Justice's secretary had expressed her disdain and concern that Mr. Rehnquist had said that this memorandum represented the late Justice Jackson's views. I think she summed it all up by saying that the man who opened and closed the Nuremberg Trial did not need a 28-year-old law clerk to tell him how to argue before his brethren or colleagues on the Supreme Court of the United States.

That is why I think the question of credibility has been raised. I could understand if a man could not remember what has happened, but when he does remember, when he does recollect what happened, and he tries to suggest that the content of that 1952 memorandum is consistent with the views of the late Justice Jackson, that just is not based on the fact.

I see my friend, the Senator from Hawaii, sitting here. I am sure he is very familiar and sensitive about the issue that was before the Court dealing with the way in which the Japanese-American citizens were treated during World War II. The man who wrote the stellar, the ringing defense in opposition to what the Supreme Court decided—that those American citizens could be put in detention camps—was Justice Jackson. He argued eloquently that one could not, indeed, treat individuals this way.

Yet, to suggest that some of the passages in this memorandum, which are directly contrary to the Jackson dissent in the Korematsu case are Jacksonian phrases, is totally wrong—totally wrong. And it is impossible to suggest that Justice Jackson was not a strong advocate of personal liberties or individual rights over property rights, when one recognizes that Jackson was the one who wrote the Barnette case—a very tough decision about the rights of Jehovah's Witnesses children not to pledge allegiance to the flag if that was going to be demeaning to them in their religion. This is just not the Justice Jackson of that memorandum.

I do not know whether Cronson is right or whether Rehnquist is right, but I think the Senate ought to look into it and not rush headlong into a Christmas recess in an effort to tend to our own convenience rather than to the qualifications of the man whose nomination is now before the Senate.

The PRESIDENT pro tempore. The time of the Senator 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 minority leader, or anybody else, 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 have voted by now, had that 1952 memorandum not been uncovered last Sunday. 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 Cronson explanation of that memorandum and to look at the Rehnquist explanation of that memorandum, and then to decide for himself whether those are similar replies or whether they are totally inconsistent and therefore inconclusive.

CALL OF THE ROLL

The PRESIDENT pro tempore. The hour of 12 o'clock noon 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.]

Aiken	Fong	Montoya
Allen	Fulbright	Moss
Allott	Gambrell	Muskie
Baker	Goldwater	Nelson
Bayh	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bentsen	Hansen	Pell
Bible	Harris	Proxmire
Boggs	Hart	Randolph
Brock	Hartke	Ribicoff
Brooke	Hatfield	Roth
Buckley	Hollings	Saxbe
Burdick	Hruska	Schweiker
Byrd, Va.	Hughes	Scott
Byrd, W. Va.	Humphrey	Sparkman
Cannon	Inouye	Spong
Case	Jackson	Stafford
Chiles	Javits	Stennis
Church	Jordan, N.C.	Stevens
Cook	Jordan, Idaho	Stevenson
Cooper	Kennedy	Symington
Cotton	Long	Taft
Cranston	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dole	Mathias	Tower
Dominick	McGee	Tunney
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ellender	Metcalf	Young
Ervin	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 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 mandatory 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 necessarily absent.

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. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) 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

Aiken	Fong	Randolph
Allott	Gambrell	Ribicoff
Baker	Goldwater	Roth
Beall	Griffin	Saxbe
Bellmon	Gurney	Schweiker
Bentsen	Hansen	Scott
Boggs	Hatfield	Sparkman
Brock	Hollings	Stafford
Buckley	Hruska	Stennis
Chiles	Jordan, N.C.	Stevens
Cook	Jordan, Idaho	Taft
Cotton	Long	Talmadge
Curtis	Magnuson	Thurmond
Dole	McIntyre	Tower
Dominick	Miller	Weicker
Eastland	Montoya	Young
Ervin	Pearson	
Fannin	Pell	

NAYS—42

Allen	Fulbright	McGovern
Bayh	Gravel	Metcalf
Bible	Harris	Mondale
Brooke	Hart	Moss
Burdick	Hartke	Muskie
Byrd, Va.	Hughes	Nelson
Byrd, W. Va.	Humphrey	Packwood
Cannon	Inouye	Pastore
Case	Jackson	Proxmire
Church	Javits	Spong
Cooper	Kennedy	Stevenson
Cranston	Mansfield	Symington
Eagleton	Mathias	Tunney
Ellender	McGee	Williams

NOT VOTING—6

Anderson	McClellan	Percy
Bennett	Mundt	Smith

The PRESIDENT pro tempore. On this vote the yeas are 52 and the nays are 42. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

The Senator from Indiana addressed the Chair.

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

Mr. PASTORE. Mr. President, may we have order now?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BAYH. The Senator from Indiana would like to have 5 minutes to explain to the Senate his thoughts on where we are on this nomination while we all are here. It is the understanding of the Senator from Indiana that we have a previous unanimous consent agreement.

What steps would the Senator from Indiana have to take to have the opportunity to proceed at this time for 5 minutes?

The PRESIDENT pro tempore. Without objection, the Senator may proceed.

Mr. BAYH. Mr. President, my colleagues, this is the first time during this debate where the number of Senate colleagues present is consistent with the importance of the issue. I say that not as a matter of controversy because I know full well the heavy demands that have been on the shoulders and in the minds of each and every Senator here. Each of us has legislative responsibilities, conference committees, the responsibility to tie up last minute details on legislative issues, and, thus, we have not had the opportunity to give careful attention to this Supreme Court nomination.

Some of us, and he Senator from Indiana happens to be one, and other Senators who are members of the Committee on the Judiciary—the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY), and the Senator from Indiana—have been personally charged with this responsibility and thus have studied it very carefully.

After great consideration we compiled a minority report, which some Senators may have had a chance to read. Since the compilation of that report other matters have come to the attention of the Senate which are not contained therein, although there are some Rehnquist supporters who feel strongly that all these questions have been dealt with. I suggest that anyone who feels that way should read the eloquent presentation made by the junior Senator from Massachusetts yesterday relative to the differences of opinion raised by the 1952 memorandum, the efforts on the part of the nominee to explain them, and now, efforts on the part of a coclerk, now in London, to explain them differently. I suggest that anyone who reads that presentation has to come to the conclusion that the Senate has not dealt with answering the questions. The Senator from Indiana really has not been able to resolve all the questions in his own mind.

I intend to send to the desk a resolution, and to ask the Senate to consider it, postponing further consideration of this nomination until the first day we return after the Christmas recess, and guaranteeing that we vote on it at that time, that no further debate, or limited debate be agreed upon. I think this is a good faith effort to try to show that the Senator from Indiana and those of us who are trying to explore the issues are not trying to use the floor of the Senate to prevent the question from being put.

I have talked to the majority leader and he is opposed to this, and he will express himself, because of commitments he made.

I feel that to put this matter over to the first of the year and then vote on it up or down is consistent with what we have done on other controversial matters, such as the education bill, the genocide bill, and equal rights for men and women amendment. We have put those measures off to next session.

It is also consistent with the amount of time which elapsed during which the Senate debated this nomination, compared with the amount of time that has been used to debate previous nominations on which there was controversy.

It would meet the convenience of the Senate. The Senate has not been inconvenienced. We would not be home before now if it were not for the Rehnquist nomination. But if we went on to pursue this matter it might cause inconvenience to the Senate.

My proposal would give us a chance to study the issues, absent international turmoil with which the world is faced, and absent legislative packages which have come to this body in the last week or two, before we put a man on the Supreme Court.

Before we put a man on the Supreme Court for the best part of a quarter century, let each of us in his own mind determine that the questions have been laid to rest finally.

I can note that right now there is a strong majority supporting the Rehnquist nomination. I doubt very much if between now and the first and second day upon returning that very many Senators' minds are going to be changed, but I think each of us would have a better opportunity to resolve in his own mind the accuracy of the determination we have made now.

I suggest that Senators not make this final determination in a precipitate effort to convenience the Senate. We all want to adjourn. But let us put our responsibility for the Court above our personal convenience.

Mr. President, I send to the desk the motion.

The PRESIDENT pro tempore. The motion will be stated.

The assistant legislative clerk read 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 15, 1972.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized for 4 minutes and that one-half of that time be given to the distinguished minority leader, the Senator from Pennsylvania.

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

Mr. BAYH. Mr. President, reserving the right to object, and I will not object, the Senator from Indiana is fully aware of the fact that the best way to dispose of this particular motion, I am told by the Parliamentarian, is to table it, and thus, to cut off further debate. I would be willing, if I may say to the distinguished minority leader and the distin-

guished majority leader, to agree to a definite time certain to vote on the measure.

I am not trying to be arbitrary but I would like some give and take so we have a full discussion of views here on the motion.

Mr. MANSFIELD. Mr. President, may I say that this disrupts the schedule somewhat. I hope it will not discommode anyone insofar as the votes already announced are concerned.

It is anticipated that on the basis of the move made by the Senator from Indiana, a move entirely within his rights as a Senator, that that vote might be delayed in view of the situation which has developed.

May I first, before making my position clear, ask the distinguished Senator from Indiana if he would agree to a vote on his motion at 1 o'clock.

Mr. BAYH. Mr. President, I have no objection.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a vote on the pending motion occur at the hour of 1 o'clock.

The PRESIDENT pro tempore. Is there objection?

Mr. CANNON. Mr. President——

The PRESIDENT pro tempore. The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, I demand the yeas and nays.

Mr. CANNON. Mr. President, reserving the right to object——

Mr. SCOTT. Mr. President, a point of order. The Chair has ruled.

The PRESIDENT pro tempore. The Chair has announced the vote would be at 1 o'clock.

Mr. SCOTT. Mr. President, I demand the yeas and nays on the vote.

Mr. CANNON. Mr. President, I requested recognition, reserving the right to object.

Mr. MANSFIELD. Mr. President, I ask that the request granted be vacated, in view of the situation that has arisen.

The PRESIDENT pro tempore. Is there objection to the request of the majority leader to vitiate the agreement? The Chair hears none, and it is so ordered.

Mr. CANNON. Mr. President, I am simply trying to clarify one point. Did I understand the motion provides for the date January 15? January 15 happens to be a Saturday, I believe, and I am trying to clarify the date when we are going to come back in session——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the date be changed to January 18.

Mr. BAYH. Mr. President, the Senator from Indiana does not intend to object.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will 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.

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 vote to be on the motion 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 squabbling match.

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

Mr. MANSFIELD. A most serious issue is before us. The Senator from Indiana, in good faith, is trying to achieve what any Senator has a right to do—to set a date certain on which to vote on the pending nomination. The agreement had already been entered 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 occur 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 agree, 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 for an opportunity to discuss the matter, and there would not be that much time if we proceed under the previous order——

I am glad to hear the request of the majority leader, but I just thought the vote on S. 1874 should be put off until after the vote at 1 o'clock.

Mr. MANSFIELD. That is correct, and the Senator will lose not one second.

I make that request, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request to postpone the vote on the bill (S. 1874) until after the vote is had on the motion? Without objection, it is so ordered——

Mr. HUMPHREY. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, if we keep having objections, the hour of 1 o'clock is going to be passed and we will not be able to get to it. We will not have time.

The PRESIDENT pro tempore. There has to be unanimous consent.

Mr. HUMPHREY. Mr. President, I am not going to object. I want to ask a parliamentary inquiry on the vote on S. 1874. Is that subject to further amendment?

The PRESIDENT pro tempore. Yes, it is, but there is no time for further debate.

Is there objection to the request that the Senate vote at 1 o'clock? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time between now and 1 o'clock be equally divided between the distinguished minority leader and the distinguished Senator from Indiana (Mr. BAYH).

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

Mr. MANSFIELD. Mr. President, will the minority leader yield me 2 minutes?

Mr. SCOTT. Yes.

Mr. MANSFIELD. I am torn by the move made by the distinguished Senator from Indiana because of the fact that at the time these nominations were first brought before us, in my capacity as the majority leader I stated to the Senate that we would stay with these two nominations until they were completed. I had anticipated that that would be the situation which would bring about a final vote on both the Powell and Rehnquist nominations this month.

However, I must reiterate, the Senator from Indiana is wholly and fully within his rights. I make this explanation only to indicate to the Senate that it was the intent of the joint leadership to stay with these nominations until finished. It may well turn out to be that way. Only the final count will tell. But at the same time I emphasize that while this will not be possible under certain circumstances, the Senator from Indiana is absolutely, wholly, and fully within his rights to make the motion which is now before the Senate for consideration.

Mr. SCOTT. Mr. President, I yield myself 3 minutes, first of all for a parliamentary inquiry.

It is now the order of the Senate that we vote at 1 o'clock today on the motion of the Senator from Indiana and any amendments thereto. Is that correct?

The PRESIDENT pro tempore. That is correct.

Mr. SCOTT. Would an amendment be in order in the nature of a substitute that the Senate proceed immediately to

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 would not be in order?

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 adjourn; to adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain; to take a recess; to proceed to the consideration of executive business; to lay on the table; to postpone indefinitely.

All those 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 demand the yeas and nays, then, on the vote.

The yeas and nays were ordered.

The PRESIDENT pro tempore. Who yields time?

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 matters of some importance before the Senate.

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

Mr. SCOTT. Could I read the motion first?

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.

I would rather finish first; I shall not be long.

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 Parliamentarian 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, or some such date, 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 until we dispose of it. I think we could 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 the part of their colleagues, and I believe we do. When 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 generous 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 2 hours to 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, the Senator 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, we have had a breakdown 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 feels very strongly, does not have the proper respect for the legislative branch, and wantstoexpand t he 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 Cronson telegram? How many have had a chance to read the Rehnquist response in explanation of the 1952 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 on the basis of the facts which existed 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 available to 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 nomination 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 Cronson 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, as we would want to in 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, we could debate it with ourselves on Sunday, and we could debate it again in communication with one another on Monday, and at 5 o'clock have a vote.

I think at that time the complete story

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 repeat, 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 full story been told?

Maybe it has not been fully told, as the Senator from Indiana has said. He would have 2½ days to tell the rest of it, and we would have 3½ 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 campaign and election reform bill. We are pretty well hung up, if you ask me. [Laughter.]

That being the case, I think that if we could get a unanimous-consent agreement to vote at 5 p.m. on Monday, we would eliminate all this confusion.

The PRESIDENT pro tempore. Is the Senator putting that in the form of a request?

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 nomination have been very concerned about imposing our feelings and the continuance of this debate on the Senate. However, the Senator from Indiana has two 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. Cronson, 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 date certain, with a guarantee that we are going to vote as soon as we return, 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 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 study the record and 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 meant I am against him.

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 should 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 hope we could then move to a decision either to vote up and 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 back?

The PRESIDENT pro tempore. Two minutes.

Mr. BAYH. I would rather use the 3 minutes at my disposal.

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 recent story in 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 say that we will invoke cloture, 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, nothing is 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 is 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—so that we can approach them carefully and give them the type of consideration they deserve next year. We have postponed the post card registration matter, the EEOC, the genocide treaty, the equal rights amendment, the higher education bill. These matters were put off so that the Senate will have a chance to make a final determination in a responsible, 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 of Virginia. 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.

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.

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 restate 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 question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from 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. MUNDT) 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:

[No. 447 Ex.]

YEAS—22

Bayh	Hartke	Nelson
Brooke	Humphrey	Pell
Cannon	Kennedy	Proxmire
Church	McGovern	Stevenson
Cranston	Metcalf	Tunney
Fulbright	Mondale	Williams
Gravel	Moss	
Hart	Muskie	

NAYS—70

Aiken	Ellender	Montoya
Allen	Ervin	Packwood
Allott	Fannin	Pastore
Baker	Fong	Pearson
Beall	Gambrell	Randolph
Bellmon	Goldwater	Ribicoff
Bentsen	Griffin	Roth
Bible	Gurney	Saxbe
Boggs	Hansen	Schweiker
Brock	Hatfield	Scott
Buckley	Hollings	Sparkman
Burdick	Hruska	Spong
Byrd, Va.	Hughes	Stafford
Byrd, W. Va.	Inouye	Stennis
Case	Jackson	Stevens
Chiles	Javits	Symington
Cook	Jordan, N.C.	Taft
Cooper	Jordan, Idaho	Talmadge
Cotton	Long	Thurmond
Curtis	Magnuson	Tower
Dole	Mansfield	Weicker
Dominick	Mathias	Young
Eagleton	McIntyre	
Eastland	Miller	

NOT VOTING—8

Anderson	McClellan	Percy
Bennett	McGee	Smith
Harris	Mundt	

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.

EXECUTIVE MESSAGES REFERRED

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.)

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to the consideration of legislative business.

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 in which to discuss the matter.

The Senator from Indiana has not felt that those who opposed Mr. Rehnquist's confirmation should impose their views on the Senate 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. BYRD 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, which has just been rejected, requested a unanimous consent agreement that 2 hours of debate occur on January 18.

I want to be sure the majority leader's proposal now will 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, please. 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 1 minute 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.

That 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 4, line 3, of the Senate engrossed amendments, strike out "502" and insert in lieu thereof the following: "402"; 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 "503" and insert in lieu thereof the following: "403," and strike out the period immediately following "Act".

On page 4, line 8, of the Senate engrossed amendments, strike out "7–1571a" and insert in lieu thereof the following: "47–1571a"; 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 an amendment, as follows:

On page 4, line 11, of the Senate engrossed amendments, strike out "504" 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 an amendment, 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 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, 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 "601.".

On page 7 of the House engrossed bill, strike out lines 19 through 21 and insert in lieu thereof the following:

"is amended to read as follows:

"'SECTION 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 credited to the general fund of the District of Columbia.'

"(b)(1) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–2501a) for the fiscal year ending June 30, 1972, there is authorized to be appropriated to the District of Columbia for such fiscal year not to exceed $6,000,000 which may only be used in such fiscal year to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in section 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.

"(2) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–2501a) for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there is authorized to be appropriated to the District of Columbia not to exceed $12,000,000 for each such fiscal year which may only be used to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in section 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey." And the Senate agree to the same.

Amendment Numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, 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 18, 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, may".

On page 10, line 20, 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, may".

On page 12 of the House engrossed bill, insert after the period at the end of line 11 the following: "If such recipient vacates the premises with respect to which such allegation was made, rents other premises in the District of Columbia, and the Commissioner determines on the basis of such allegation that such recipient was justified in vacating the premises with respect to which the allegation was made, the Commissioner may pay to the recipient an amount (not to exceed his monthly shelter allotment) to enable him to make the rental payment required (if any) for such other premises for the period preceding the period for which the recipient will first receive his monthly shelter allotment under the preceding sentence."

On page 12, of the House engrossed bill, strike out lines 12 through 14 and insert in lieu thereof the following:

"'(d) The failure of any lessor 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 the quotation marks and add after line 25 the following:

"'(f) For purposes of subsections (b) and (c), the term "lessor" includes a sublessor.

"'(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.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24 and agree to the same with an amendment as follows:

On page 7, line 10, of the Senate engrossed amendments, strike out "804" and insert in lieu thereof the following: "705": 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:

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 matter proposed to be stricken out by the Senate amendment and on page 14 of the House engrossed bill insert the following after line 21:

"SEC. 708. (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, and

"(3) by striking out paragraph (6).

"(b) The amendments made by subsection (a) of this section shall take effect January 1, 1972."; and the Senate agree to the same.

Amendment numbered 29: 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: "805".

THOMAS F. EAGLETON,
DANIEL K. INOUYE,
ADLAI E. STEVENSON III
CHARLES MC. MATHIAS, JR.,
LOWELL P. WEICKER, JR.,
Managers on the Part of the Senate.

JOHN L. MCMILLAN,
EARLE CABELL,
W. S. (BILL) STUCKEY, JR.,
ANCHER NELSEN,
JOEL T. BROYHILL,
Managers on the Part of the House.

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 on the District of Columbia Revenue Act of 1971.

Basically, the bill as agreed to by the conferees provides for a Federal payment for the fiscal year ending June 30, 1972, of $173 million with an additional $6 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 $179 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.

The managers 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 unwise 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 its fiscal year. By Congress setting the authorization in advance, the District government will know exactly what the authorized Federal payment will be and, barring completely 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 $6 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 consider pay increases for these groups, it is expected that in the same legislation there will be a financing proposal which in some way raises local taxes. There will be no increase in 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, drivers' helpers, loaders, and mechanics. These employees will now be entitled to overtime compensation as they were prior to the adoption of the exemption.

There is presently matters relating to this act which are in the courts and it was not the intention of the conference to legislate retroactively to determine the intention of Congress in 1966 when it passed these amendments.

The second provision relates to the suspension of rental allotments payable to welfare recipients. While I have deep reservations about the constitutionality of 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 REHNQUIST 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. Rehnquist, the Senate turn to the consideration of the Presidential veto on OEO, and that there be a time limitation of 2 hours on that matter, the time to be equally divided between the majority leader 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 Senator give us a minute? This is the first 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.

The Senator from Minnesota (Mr. MONDALE) has a very great interest in it; the Senator from California (Mr. CRANSTON) has an interest in the legal services; and I have a great interest in OEO and all these titles. We want to be sure the time allocation is adequate.

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 conference 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.

Mr. DOMINICK. 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, reserving the right to objection, 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. DOMINICK). 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 that I hear silence 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 with the understanding 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. KENNEDY. 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 this question 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 be in order.

The amendment will be stated.

The amendment was read as follows:

S. 1874

On page 20, 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 thereof, 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 preceding the first proviso the following: "or 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 be seated.

Mr. HUMPHREY. 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. That letter is addressed to the 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:

CLAY COUNTY WELFARE BOARD,
Moorhead, Minn., December 2, 1971.

Mr. MORRIS HURSH,
Commissioner, Department of Public Welfare, Centennial Building, St. Paul, Minn.

Attention: Mr. Curtiss Johnson, Food Stamp Supervisor.

DEAR MR. HURSH: This is in reference to your Request Bulletin #26, 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	$6
2-member family	20	6
3-member family	22	9
4-member family	29	9

These figures are for the public assistance recipients who are participating in the Food Stamp Program. It is the opinion of this agency that the reduced amount in bonus stamps will emasculate the Program and render it unuseable by most public assistance clients.

In the next paragraph I note that each participant will be given the option, at the time of purchase, of buying the full amount of Food Stamps, at three-fourths, one-half, or one-fourth allocations. The afore mentioned can vary from month to month according to clients wishes. It would seem to be under this proposal that those clients who do participate may buy the full amount, three-fourths, one-half, or one-fourth of the amount and would destroy the effectiveness of the plan. I do not believe that a family of four with a monthly bonus of $9.00 available would buy one-fourth and receive $2.25 worth of bonus stamps. It would also increase the administration costs due to the multiplicity of certifications and purchases which will not only add paper work but will necessitate additional staff. It is also mentioned that each recipient will have the option of having his purchase requirement withheld from his grant and the remainder of the balance and his Food Stamps mailed to him. I doubt very much that there will be any sizeable participation on the part of people who request that the amount of the purchase requirement be withheld from their grants.

I am also deeply concerned about the possibility of losses of stamps or theft of stamps going through the mail. In the event of this who would be responsible?

Your next paragraph, number four, refers to households in which all members are included in Federally aided Public Assistance or General Assistance grants, and states that if the total income exceeds the allowable amount the bonus allotment will be substantially less, and the present bonus purchase requirement will be somewhat increased. There are many Aid to Families With Dependent Children mothers who are on jobs or in training courses who have a disregard of earnings to be considered when the grant is computed, and we have very few of these people participating. There is no question of the additional paper work required and the referral of people for work registration is useless if there are no jobs to be obtained. This also mentioned free Food Stamps will be provided for those with extremely low income, although it is not mentioned what constitutes low income for the various sized families. Also it mentioned that assets are defined as including certain items of personal property that do not produce income. An explanation of these items would be helpful.

We have 226 Old Age Assistance cases of which 36 participate in the Food Stamp Program. The greater participation is in the Aid to Families With Dependent Children Program in which 58 families out of a total of 201 participate. In the aid to the Disabled Program 20 persons out of 200 participate. In the Non-Public Assistance group we have 216 participating out of a total of 254.

In short, I believe that the proposed regulations are destructive of any benefits in the Food Stamp Program, and I doubt that we will have any extensive participation because of the reduced amount of bonus stamps under the proposals. It is cumbersome enough to have a Program that is under the jurisdiction of two departments such as the Department of Agriculture and the Department of Health, Education, and Welfare. It is the opinion of this agency that if such proposals are put into effect that the Food Stamp Program will die for lack of participation.

Yours very truly,

R. J. MCMULLEN,
Director.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY).

The amendment was agreed to.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDENT pro tempore. The

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 the 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 will state it.

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 be 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 on one other occasion.

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, the new standard 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, Rhode Island, New Jersey, Nebraska, 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 $36 of their money 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 $54 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 instituted 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 legislative 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. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 88, nays 1, as follows:

[No. 448 Leg.]

YEAS—88

Aiken	Fannin	Montoya
Allen	Fong	Moss
Allott	Fulbright	Muskie
Baker	Gambrell	Nelson
Beall	Gravel	Packwood
Bellmon	Griffin	Pastore
Bentsen	Gurney	Pearson
Bible	Hansen	Pell
Boggs	Hart	Proxmire
Brock	Hartke	Randolph
Brooke	Hatfield	Ribicoff
Buckley	Hollings	Roth
Burdick	Hruska	Saxbe
Byrd, Va.	Hughes	Schweiker
Byrd, W. Va.	Humphrey	Scott
Cannon	Inouye	Sparkman
Case	Jackson	Spong
Chiles	Javits	Stafford
Church	Jordan, N.C.	Stevens
Cook	Jordan, Idaho	Stevenson
Cooper	Kennedy	Symington
Cotton	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tower
Dole	Mathias	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Metcalf	Young
Ellender	Miller	
Ervin	Mondale	

NAYS—1

Taft

NOT VOTING—11

Anderson	Harris	Percy
Bayh	McClellan	Smith
Bennett	McGee	Stennis
Goldwater	Mundt	

So the bill (S. 1874) was passed, as follows:

S. 1874

An act to provide for the establishment of projects for the 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 are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972; $15,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 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 projects for dental care and services for children of preschool and school age. Any such project shall include such comprehensive corrective, followup and preventive services (including dental health education), and treatment as may be required under regulations of the Secretary.

"(b) Grants under this section shall not be utilized to provide or pay for dental care and services for children unless such children are determined (in accordance with 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, demonstrations, or experimentation carried on 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 care personnel with various levels of training; except that not more than 10 per centum 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 are hereby 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 disease or dental defects among residents of such communities or the students in such schools (as the case may be).

"(b) Grants under this section may be utilized for (but are not limited to) the purchase and installation of water treatment equipment.

"(c) Grants under this section shall not exceed—

"(1) 80 per centum of the cost of the treatment program with respect to which such grant under this section is made in the case of any grant under section 1101; and

"(2) 66⅔ per centum of the cost of the treatment program with respect to which such grant is made in the case of any other grant.

"GRANTS TO TRAIN AUXILIARY DENTAL PERSONNEL

"SEC. 1103. There are hereby authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1972; $20,000,000 for the fiscal year ending June 30, 1973; and $25,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to public and nonprofit private institutions to assist them in establishing and carrying out programs to educate and train persons for careers as auxiliary dental personnel with special emphasis on the education and training of veterans of the Armed Forces who have received experience and training in dental auxiliary functions.

"PROJECTS TO PROMOTE EFFECTIVE USE OF AUXILIARY DENTAL PERSONNEL

"SEC. 1104. (a) 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 and enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 539) under subsection (c) and to make grants to dental schools, and to other public or nonprofit private agencies, organizations, and institutions, and to enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 529) 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 auxiliaries and the management and supervision of total dental health teams (including, but not limited to, teams consisting of various types of 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 organize dental health services to achieve maximum effectiveness in the use of auxiliary dental personnel, which projects take into account such factors as patient 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 familiy 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 or 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 or services in areas or communities in a State determned by the appropriate State health authority in such State to have a shortage of and need for dentists.

"DENTAL ADVISORY COMMITTEE

"SEC. 1105. (a) The President shall appoint a Dental Advisory Committee consisting of seven members, four of whom shall be selected from the dental profession and three from the general public. Members shall be appointed from among persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the programs established by this title. The Secretary shall be an ex officio member of the Committee.

"(b)(1) 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 two shall be appointed for a term of six years as designated by the President at the time of appointment. The members shall select their own chairman.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor 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 advise the Secretary in regard to the reports required under section 1006, in regard to programs established under this title, and in regard to activities carried on by the Department of Health, Education, and Welfare related to dental health, dental manpower, or dental training and services, and shall serve as a reviewing body for grants made pursuant to this title, where such review is deemed necessary by the Secretary.

"(4) Members of the Dental Advisory Committee who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

"(5) The Secretary shall make available to the Dental Advisory Committee such staff, information, and other assistance as it may require to carry out its activities.

"(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 31 of each year on the progress 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 ninety 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 except that services described in paragraph (10) of section 1905(a) may be made available to individuals or groups of individuals under age eighteen without making available such services of the same amount, duration, and scope to individuals of any other ages;".

SEC. 4. (a) Section 1 of the Public Health Service Act is amended to read as follows:

"SECTION 1. Titles I to XI, inclusive, of this Act may be cited as the 'Public Health Service Act'."

(b) The Act of July 1, 1944 (58 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:

"(g)(1) 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 sensitizing, allergenic, or abrasive character or (B) because of any foreseeable handling, storage, or use by individuals it presents such a potential risk; then such dentifrice shall bear adequate cautionary labeling (such labeling shall be conspicuous and shall include first-aid information if appropriate). 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 will reduce the potential risk to 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 may in pursuance of the objective of this subsection require the submission of the quantitative formula of such dentifrice or class thereof by the manufacturers of such dentifrice.

"(2) If it is a dentifrice and its labeling fails to bear cautionary information in the manner prescribed in clause (1) of this subsection.".

SEC. 6. Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(y) The term 'dentifrice' means any cosmetic, drug, or other article recommended, suggested, or indicated for use by humans in the cure, mitigation, treatment, or prevention of diseases of the teeth or for cleansing 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 201 may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose; and in any such case the term 'local' when used in section 101 or 201 with respect to any program shall be deemed to read 'State'."

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 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 preceding the first proviso the following: "or 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. 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 proviso that 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. CHILES). 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 resolutions of ratification; that I be permitted to incorporate at appropriate points in the RECORD 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

[Translation]

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

Of June 15, 1957

ARTICLE 1

(1) The countries to which this Agreement applies form a Special Union.

(2) They adopt, for the purpose 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.

(4) The list of classes and the alphabetical list of goods are those which were published in 1935 by the International Bureau for the Protection of Industrial Property.

(5) The list of classes and the alphabetical list of goods and services may be modified 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.

(6) 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 in agreement with the national Administration concerned. Each translation of the 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 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 apply the international 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 of the international classification to which the goods or services for which the mark is registered belong.

(4) The fact that a term 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 of Experts, which shall be organized according to Regulations adopted by a majority of the countries represented. The International Bureau shall be represented on the Committee.

(2) Proposals for modification or addition shall be addressed by 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. "Modification" means 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 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) If 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 prescribed by the Regulations, the country concerned shall be considered 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 the Administration 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 notification is received, and, as far as modifications are concerned, within a period of six months to be reckoned from the date of dispatch of the notification.

(2) The International Bureau, as the depositary of the classification of goods and services, shall incorporate therein 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 provisions of Articles 13(8), (9), and (10), of the Paris Convention for the Protection of Industrial Property. Until a further decision is made, these expenses may not exceed the sum 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 diplomatic conferences, or those due to special work or publications carried out in accordance with the decisions of a conference. These expenses, 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 increased by decision of the contracting countries or of one of the conferences 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, 1961. These ratifications, with their dates and any statements accompanying them, shall be notified by the Government of the French Republic to the Governments of the other contracting countries.

(2) Countries of the Union for the Protection of Industrial Property which have not signed this Agreement in accordance with Article 11(2) shall be allowed to accede to it, at their request, in accordance with the provisions of Article 16 of the Paris Convention for the Protection of Industrial Property.

(3) 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 the Agreement in accordance with Article 16 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 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 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 improvements.

(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 of the International Bureau shall attend the meetings of the conferences and take part in the discussions, but without the right to vote.

ARTICLE 9

(1) Each contracting country shall be entitled to denounce this Agreement by means of a written notification addressed to the Government of the Swiss Confederation.

(2) This denunciation, 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 16*bis* 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:
HERBERT KUHNEMANN
For Australia:
For Austria:
GOTTFRIED THALER
For Belgium:
L. HERMANS
For Brazil:
For the People's Republic of Bulgaria:
For Canada:
For Ceylon:
For Cuba:
For Denmark:
JULIE OLSEN
For the Dominican Republic:
For Egypt:
For Spain:
N. JURISTO VALVERDE
J. L. APARICIO
For the United States of America:
For Finland:
For France:
MARCEL PLAISANT
For the United Kingdom of Great Britain and Northern Ireland:
R. G. ATKINSON
For Greece:
For the Hungarian People's Republic:
LAJOS DEGE
For Indonesia:
For Ireland:
For Israel:
For Italy:
TALAMO
For Japan:
For Lebanon:
FAYARD
A. SOUFI
For the Principality of Liechtenstein:
HANS MORF
For Luxembourg:
J. P. HOFFMANN
For Morocco:
TAIEB SEBTI
For Mexico:
For Monaco:
C. SOLAMITO
For Norway:
ROALD ROED
For New Zealand:
For the Netherlands:
C. J. DE HAAN
For the Polish People's Republic:
Z. MUSZYNSKI
For Portugal, including the Azores and Madeira:
JORGE VAN-ZELLER GARIN
For Romania:
M. BALANESCO 31.12.1958
For Sweden:
CLAES UGGLA
For Switzerland:
HANS MORF
LÉON EGGER
For Syria:
For the Czechoslovak Republic:
DR. JAN CECH
For Tunisia:
SALAH EDDINE EL GOULLI
For the Republic of Turkey:
FERIDUM C. ERKIN 31.12.1958
For the Union of South Africa:
For Viet-Nam:
For Yugoslavia:
MILENKO JAKOVLJEVIC

A certified true copy 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 CONCERNING 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 [1]

ARTICLE 1

[Establishment of a Special Union; Adoption of an International Classification; Definition of International Classification; Languages] [2]

(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.

(4) The list of classes and the alphabetical list of goods are those which were published in 1935 by the International Bureau for the Protection of Industrial Property.

(5) 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.

(6) 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 Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), in agreement with the national Office concerned. Each translation of the 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

[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 to which the goods or services for which the mark is registered belong.

(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. The International Bureau shall be represented on the Committee.

(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 at 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. "Amendment" 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) If 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 prescribed by the Regulations, the 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

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[1] This is a provisional English translation prepared by BIRPI.

[2] Articles have been given titles to facilitate their identification. There are no titles in the signed, French text.

countries by the International Bureau. The decisions shall come into force, in so far as additions are concerned, as soon as the notification is received, and, as far as amendments are concerned, within a period of six months from the date of dispatch of the notification.

(2) The International Bureau, as the depository of the classification of goods and services, shall incorporate therein the amendments and additions which have entered into force. Announcements of such amendments and additions shall be published in 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.

(2) (*a*) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the maintenance and development 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 Director General of the Organization (herinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(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 as it may deem necessary to achieve the objectives of the Special Union;

(vii) determine which countries not members of the Special Union and which intergovernmental and international nongovernmental organizations shall be admitted to its meetings as observers;

(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 appropriate under this Agreement.

(*b*) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decision after having heard the advice of the Coordination Committee of the Organization.

(3) (*a*) Each country member of the Assembly shall have one vote.

(*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 procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the 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 three months 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 provided that at the same time the required majority still obtains.

(*d*) Subject to the provisions of Article 8(2), the decisions of 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.

(4) (*a*) 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.

(*b*) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(*c*) The agenda of each session shall be prepared by the Director General.

(5) 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 have been 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 have been 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.

(*c*) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(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 contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(*c*) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) 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.

(3) 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 publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) (*a*) For the purpose of establishing its contribution referred to in paragraph (3) (i), each country of the Special Union shall belong to the same class as it belongs to in the Paris 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 by all countries as the number of its units is to the total of the units of all contributing countries.

(*c*) Contributions shall become due on the first 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 that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(*e*) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous 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) (*a*) 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.

(*b*) 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 is established or the decision to increase it is made.

(*c*) 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.

(7) (*a*) 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 those advances and the conditions 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) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 8

[Amendment of Articles 5 to 8]

(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 cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications 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 bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 9

[Ratification and Accession; Entry Into Force; Effects; Accession to the Original Act of 1957]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, 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 fifth such 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. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession 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 15, 1957, 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, as regards its relations with countries of the Special Union which have not ratified or acceded to this Act.

(2) Countries outside the Special Union which become party to this Act shall apply it with respect to any country of the Special Union not party to this Act. Such countries shall recognize that the aforesaid country of the Special Union may apply, as regards its relations with them, the provisions of the original Act of June 15, 1957.

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 15, 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.

(3) The right of denunciation provided for 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 14

[Reference to Article 24 of the Paris Convention (Territories)]

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 15

[Signature, Languages, Depositary Functions]

(1) (a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, and notifications of denunciation.

ARTICLE 16

[Transitional Provisions]

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be construed as references to the Bureau of the Union established by the Paris Convention for the Protection of Industrial Property or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided for under Articles 5 to 8 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to that effect to the Director General; such notification shall be effective from the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

IN WITNESS WHEREOF, the undersigned, duly authorized for that purpose, have signed this Act.

DONE at Stockholm, July 14, 1967.

For Australia:
For Belgium:
BON F. COGELS
For Denmark:
JULIE OLSEN
For Spain:
J. F. ALCOVER
ELECTO J. GARCÍA TEJEDOR
For France:
B. DE MENTHON
For Hungary:
ESZTERGÁLYOS
For Ireland:
VALENTIN IREMONGER
For Israel:
Z. SHER
G. GAVRIELI
For Italy:
CIPPICO
GIORGIO RANZI
For Lebanon:
For Liechtenstein:
For Morocco:
H'SSAINE
For Monaco:
J. M. NOTARI
For Norway:
JENS EVENSEN
B. STUEVOLD LASSEN
For the Netherlands:
GERBRANDY
W. G. BELINFANTE
For Poland:
M. KAJZER
For Portugal:
ADRIANO DE CARVALHO
JOSÉ DE OLIVEIRA ASCENSÃO
RUY ALVARO COSTA DE MORAIS SERRÃO
For the Federal Republic of Germany:
KURT HAERTEL
For the United Kingdom of Great Britain and Northern Ireland:
GORDON GRANT
WILLIAM WALLACE
For Sweden:
HERMAN KLING
For Switzerland:
HANS MORF
JOSEPH VOYAME
For Czechoslovakia:
For Tunisia:
For Yugoslavia:
A. JELIC

NOTE.—With respect to the *signatures*, it should be noted that there appear on the original:

Page 17, under the signature "Eztergályos," the following words: "12/1/1968 subject to ratification."

Page 17, under the signature "Valentin Iremonger," the following date: "12 January 1968."

Page 18, over the signature "Jens Evensen," the following words: "subject to ratification."

Page 19, under the signature "M. Kajzer," the following words: "subject to ratification."

I certify that the foregoing is a true copy of the Stockholm Revision of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, adopted at the Stockholm Conference on Intellectual Property, 1967, which was opened for signature at Stockholm on July 14, 1967, and the original of which is deposited with the Government of Sweden.

[MINISTRY STAMP]

(Signed) Wilhelm Carlgren

WILHELM CARLGREN,
Director of Archives,
Royal Ministry of Foreign Affairs,
Stockholm, January 14, 1968.

EXECUTIVE I

LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS OF OCTOBER 8, 1968

ARTICLE 1

Establishment of a Special Union; Adoption of an International Classification

(1) The countries to which this Agreement applies constitute a Special Union.

(2) They adopt a single classification for industrial designs (hereinafter designated as "the international classification").

(3) The international classification shall comprise:

(i) a list of classes and subclasses;

(ii) an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall;

(iii) explanatory notes.

(4) The list of classes and subclasses is the list annexed to the present Agreement, subject to such amendments and additions as the Committee of Experts set up under Article 3 (hereinafter designated as "the Committee of Experts") may make to it.

(5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts in accordance with the procedure laid down in Article 3.

(6) The international classification may be amended or supplemented by the Committee of Experts, in accordance with the procedure laid down in Article 3

(7) (a) The international classification shall be established in the English and French languages.

(b) Official texts of the international classification, in such other languages as the Assembly referred to in Article 5 may designate, shall be established, after consultation with the interested Governments, by the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organisation").

ARTICLE 2

Use and Legal Scope of the International Classification

(1) Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries.

(2) Each country of the Special Union reserves the right to use the international classification as a principal or as a subsidiary system.

(3) The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and if they are officially published, in the publications in question, the numbers of the classes and subclasses, of the international classification into which the goods incorporating the designs belong.

(4) 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 may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to exclusive rights.

ARTICLE 3

Committee of Experts

(1) A Committee of Experts shall be entrusted with the tasks referred to in Article 1(4), 1(5) and 1(6). Each country of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a simple majority of the countries represented.

(2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the votes of the countries of the Special Union.

(3) Proposals for amendments or additions to the international classification may be made by the Office of any country of the Special Union or by the International Bureau. Any proposal emanating from an Office shall be communicated by that Office to the International Bureau. Proposals from Offices and from the International Bureau shall be transmitted by the latter to the members of the Committee of Experts not later than two months before the session of the Committee at which the said proposals are to be considered.

(4) The decisions of the Committee of Experts concerning the adoption of amendments and additions to be made in the international classification shall be by a simple majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required.

(5) Each expert shall have the right to vote by mail.

(6) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed has not expressed his vote during the session or within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

ARTICLE 4

Notification and Publication of the Classification and of Its Amendments and Additions Thereto

(1) The alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as any amendment or addition to the international classification decided by the Committee, shall be communicated to the Offices of 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 communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, they shall enter into force within a period of six months from the date of said communication.

(2) The International Bureau, as depositary of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in the periodicals to be designated by the Assembly.

ARTICLE 5

Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

(b) The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alternate delegates, advisers, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Article 3, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision;

(iii) review and approve the reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(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) decide on the establishment of official texts of the international classification in languages other than English and French;

(vii) establish, in addition to the Committee of Experts set up under Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union;

(viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Articles 5 to 8;

(x) take any other appropriate action designed to further the objectives of the Special Union.

(xi) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(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 procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the 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 three months 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 provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article

8(2), the decisions of 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.

(4) (a) 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.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) 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 have been 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 have been 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 intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(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 contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) 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.

(3) 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 publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3) (i), each country of the Special Union shall belong to the same class as it belongs to in the Paris 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 by all countries as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first 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 that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous 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) (a) 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.

(b) 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 is established or the decision to increase it is made.

(c) 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.

(7) (a) 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 those advances and the conditions 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) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 8

Amendment of Articles 5 to 8

(1) Proposals for the amendment of Articles 5, 6, 7 and the present Article, may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union 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 cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications 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 Special Union at the time the amendment was adopted. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, or which become members thereof at a subsquent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 9

Ratification and Accession; Entry Into Force

(1) Any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it.

(2) Instruments of ratification and accession shall be deposited with the Director General.

(3) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Agreement shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Agreement 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. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(4) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.

ARTICLE 10

Force and Duration of the Agreement

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Intellectual Property.

ARTICLE 11

Revision of Articles 1 to 4 and 9 to 15

(1) Articles 1 to 4 and 9 to 15 of this Agreement may be submitted to revision with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held among the delegates of the countries of the Special Union.

ARTICLE 12

Denunciation

(1) Any country may denounce this Agreement by notification addressed to the Director General. Such denunciation 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) Denunication 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 Berne until June 30, 1969.

(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 the 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, references 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 Intellectual Property (BIRPI) or its Director, respectively.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Locarno, on October 8, 1968.

For South Africa:
———— ————

For Algeria:
K. LAALA

For Argentina:
———— ————

For Australia:
———— ————

For Austria:
THALER
Dr. LORENZ

For Belgium:
A. SCHURMANS

For Brazil:
———— ————

For Bulgaria:
———— ————

For Cameroon:
———— ————

For Canada:
———— ————

For Ceylon:
———— ————

For Cyprus:
———— ————

For the Congo (Brazzaville):
———— ————

For the Ivory Coast:
———— ————

For Cuba:
———— ————

For Dahomey:
———— ————

For Denmark:
ERIK TUXEN

For Spain:
J. L. XIFRA
A. F.-MAZARAMBROZ
J. ESCUDERO

For the United States of America:
GERALD D. O'BRIEN
HARVEY J. WINTER

For Finland:
ERKKI TUULI

For France:
G. BONNEAU

For Gabon:
———— ————

For Greece:
———— ————

For Haiti:
———— ————

For the Upper Volta:
———— ————

For Hungary:
EMIL TASNÁDI

For Indonesia:
———— ————

For Iran:
M. NARAGHI

For Ireland:
———— ————

For Iceland:
———— ————

For Israel:
———— ————

For Italy:
GIORGIO RANZI

For Japan:
———— ————

For Kenya:
D. J. COWARD

For Laos:
———— ————

For Lebanon:
———— ————

For Liechtenstein:
Dr. MARIANNE MARXER

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 RÖED

For New Zealand:
———— ————

For Uganda:
———— ————

For the Netherlands:
PHAF
E. VAN WEEL

For the Philippines:
———— ————

For Poland:
———— ————

For Portugal:
ADRIANO DE CARVALHO
JORGE VAN-ZELLER GARIN
JOSÉ MOTA MAIA

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
GERHARD SCHNEIDER

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:
P. HENRI DE RIEDMATTEN

For Senegal:
———— ————

For Sweden:
BENGT HOLMQUIST

For Switzerland:
JOSEPH VOYAME
W. STAMM

For Tanzania:
———— ————

For Chad:
———— ————

For Czechoslovakia:
Prof. FRANTISEK KRISTEK

For Togo:
———— ————

For Trinidad and Tobago:
———— ————

For Tunisia:
———— ————

For Turkey:
———— ————

For the Union of Soviet Socialist Republics:
Z. MIRONOVA

For Uruguay:
———— ————

For Yugoslavia:
ZOLTAN BIRO

For Zambia:
———— ————

Copie certifiée conforme à l'original déposé auprès du Conseil Fédéral Suisse pour le Departement Politique Fédéral.

[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, macaroni, etc.
02) Chocolates, confectionery, ices
03) Cheese, butter and other dairy produce and substitutes
04) Butchers' meat (including pork products)
05) Animal foodstuffs
99) Miscellaneous

Class 2—Articles of Clothing, Including Footwear

01) Garments
02) Undergarments, lingerie, corsets, brassiéres
03) Headwear
04) Footwear (including boots, shoes and slippers)
05) Socks and stockings
06) Neckties, scarves and neckerchiefs
07) Gloves
08) Haberdashery
99) Miscellaneous

Class 3—Travel Goods and Personal Belongings, Not Elsewhere Specified

01) Trunks, suitcases and briefcases

02) Handbags, wallets, pocketbooks, purses, boxes
03) Umbrellas, walking sticks
04) Fans
99) Miscellaneous
Class 4—Brushware
01) Brushes for cleaning and brooms
02) Toilet and clothes brushes
03) Brushes for industry
04) Paint-brushes
99) Miscellaneous
Class 5—Textile Piece-goods Articles, and Other Sheet Material
01) Spun articles
02) Textile fabrics (woven, knitted, etc.)
03) Sheet material
04) Felt
05) Covering sheets (wallpaper, linoleum, etc.)
06) Lace
07) Embroideries
08) Ribbons, braids and other trimmings
09) Leather and substitutes
99) Miscellaneous
Class 6—Furnishing
01) Furniture
02) Mattresses and cushions
03) Curtains (ready-made)
04) Carpets
05) Mats and floor rugs
06) Mirrors and frames
07) Garment hangers
08) Bedspreads
09) Household linen and napery
99) Miscellaneous
Class 7—Household Goods, Not Elsewhere Specified
01) China, glassware, dishes and other articles of similar nature
02) Cooking utensils and containers
03) Knives, forks and spoons
04) Cooking stoves, toasters, etc.
05) Chopping, mincing, grinding and mixing machines
06) Flat-irons and laundering, cleaning and drying equipment
99) Miscellaneous
Class 8—Tools and Hardware
01) Tools and implements for agriculture, forestry and horticulture
02) Other tools and implements
03) Locks and other hardware fittings
04) Nails, screws, nuts, bolts, etc.
99) Miscellaneous
Class 9—Packages and Containers
01) Bottles, flasks, carboys, demijohns and pots
02) Closing means
03) Drums and casks
04) Boxes and cases
05) Hampers, crates and baskets
06) Bags, wrappers and tubes and capsules
07) Cans
08) Ropes and hooping materials
99) Miscellaneous
Class 10—Clocks and Watches, and Measuring Instruments
01) House clocks
02) Watches and wrist-watches
03) Alarms
04) Other clocks
05) All other chronometrical instruments
06) Dials, hands and all other parts of watches, clocks, and of other chronometrical instruments
07) Geodetic, nautical, acoustic and meteorlogical articles
08) Instruments for measuring physical sizes, like length, pressure, etc.
09) Instruments for measuring temperature
10) Instruments for measuring electric sizes (voltmeters, etc.)
11) Testing instruments
99) Miscellaneous
Class 11—Articles of Adornment
01) Jewelry
02) Trinkets, table mantle, and wall ornaments, including flower vases
03) Medals and badges
04) Artificial flowers, fruits and plants
05) Festive decorations
99) Miscellaneous
Class 12—Vehicles
01) Vehicles drawn by animals
02) Trolleys, trucks and barrows, hand-drawn
03) Locomotives and rolling-stock for railways and all other rail vehicles
04) Telepher carriers and chair lifts
05) Elevators and hoists
06) Ships and boats
07) Aircraft and space vehicles
08) Motor-cars and buses
09) Lorries and tractors
10) Trailers, including camping or house trailers
11) Motorcycles, scooters, bicycles and tricycles
12) Perambulators and invalid chairs
13) Special vehicles
14) Pneumatic tyres, inner tubes and all other equipment or accessories, not elsewhere specified
99) Miscellaneous
Class 13—Equipment for Production, Distribution and Transformation of Electricity
01) Generators and motors
02) Power transformers, rectifiers, batteries and accumulators
03) Equipment for distributon and control of electric power (conductors, switchgear, etc.)
99) Miscellaneous
Class 14—Electrical and Electronic Equipment
01) Equipment for the recording and reproduction of sounds or pictures
02) Equipment for the recording, reproduction and retrieval of information
03) Communications equipment (telegraph, telephone, teletype, television and radio)
04) Amplifiers
99) Miscellaneous
Class 15—Industrial and Household Machines
01) Engines (not electrical)
02) Pumps and compressors
03) Agricultural machinery
04) Construction machinery
05) Industrial machines, not elsewhere specified
06) Industrial laundry and cleaning machines
07) Household laundry and cleaning machines
08) Industrial textile sewing, knitting and embroidering machines
09) Household textile sewing, knitting and embroidering machines
10) Industrial refrigeration apparatus
11) Household refrigeration apparatus
12) Food preparation machines
99) Miscellaneous
Class 16—Photographic, Cinematographic and Optical Apparatus
01) Photographic cameras
02) Film cameras
03) Projectors (for slides)
04) Projectors (for films)
05) Photocopying apparatus and enlargers
06) Developing apparatus
07) Accessories
08) Optical articles, such as spectacles, microscopes, etc.
99) Miscellaneous
Class 17—Musical Instruments
01) Keyboard instruments (including electronic and other organs)
02) Wind instruments (including piano accordions)
03) Stringed instruments
04) Percussion instruments
05) Mechanical instruments
99) Miscellaneous
Class 18—Printing and Office Machinery
01) Typewriters and calculating machines, with the exception of electronic machines
02) Typographical machinery
03) Machinery for printing by processes other than typography (excluding photocopying machinery)
04) Characters and type faces
05) Massicots
99) Miscellaneous
Class 19—Stationers' Goods, Desk Equipment, Artists' and Teaching Materials
01) Writing paper and envelopes
02) Desk equipment
03) Calendars
04) Bindings
05) Illustrated cards and other printed matter
06) Materials and instruments for writing by hand
07) Materials and instruments for painting (excluding brushes), for sculpture, for engraving and for other artistic techniques
08) Teaching materials
99) Miscellaneous
Class 20—Sales and Advertising Equipment
01) Automatic vending machines
02) Display and sales equipment
03) Signboards and advertising materials
99) Miscellaneous
Class 21—Games, Toys and Sports Goods
01) Games
02) Toys
03) Gymnastics and sports apparatus and equipment
04) Amusement and entertainment articles
05) Tents
99) Miscellaneous
Class 22—Arms and Tackle for Hunting, Fishing and Vermin Trapping
01) Side arms
02) Projectile weapons
03) Ammunition, fuses and projectiles
04) Hunting equipment (excluding weapons)
05) Fishing rods
06) Reels for fishing rods
07) Baits
08) Other pieces of fishing tackle
09) Traps and articles for vermin destruction
99) Miscellaneous
Class 23—Sanitary, Heating, Ventilation and Air-Conditioning Equipment
01) Fluid and gas-distribution equipment (including pipes and pipe fittings)
02) Sanitary fittings and equipment (baths, showers, washbasins, lavatories, sanitary units, etc.)
03) Heating equipment
04) Ventilation and air-conditioning
05) Solid fuel
99) Miscellaneous
Class 24—Medical and Laboratory Equipment
01) Equipment for transport and accommodation for patients
02) Hospital and laboratory equipment (for diagnostic, tests, operations, treatment, eye-testing)
03) Medical, surgical, dental instruments
04) Prosthetic articles
05) Material for dressing and nursing
99) Miscellaneous
Class 25—Building Units and Construction Elements
01) Building material and elements, such as bricks, beams, tiles, slates, panels, etc.
02) Windows, doors, blinds, etc.
03) Sections, angles and channels
04) Houses, garages, and all other buildings
05) Civil engineering elements
99) Miscellaneous
Class 26—Lighting Apparatus
01) Luminous sources, electrical or not, such as incandescent bulbs, luminous tubes and plates

02) Lamps, standard lamps, chandeliers, wall and ceiling fixtures
03) Public lighting fixtures (outside lamps, stagelighting, floodlights)
04) Torches and hand lamps and lanterns
05) Candles, candlesticks
06) Lamp-shades
99) Miscellaneous
Class 27—Tobacco and Smokes' Supplies
01) Tobacco, cigars and cigarettes
02) Pipes, cigar and cigarette holders
03) Ash-trays
04) Matches
05) Lighters
06) Cigar cases, cigarette cases, tobacco jars and pouches
99) Miscellaneous
Class 28—Pharmaceutical and Cosmetic Articles and Products, Toilet Articles and Apparatus
01) Pharmaceutical articles and products
02) Cosmetic articles and products
03) Toilet articles and beauty parlor equipment
99) Miscellaneous
Class 29—Safety and Protective Devices and Equipment for Human Beings
01) Devices and equipment against fire hazards
02) Devices and equipment for water rescue
03) Devices and equipment for mountain rescue
99) Devices and equipment against other hazards (roads, mines, industries, etc.)
Class 30—Care and Handling of Animals
01) Shelters and pens
02) Feeders and waterers
03) Saddlery
04) Safety and protective devices and equipment for animals
99) Other articles
Class 31—Miscellaneous
All the products not included in the preceding Classes.

RESOLUTION

ADOPTED BY THE CONFERENCE OF LOCARNO ON OCTOBER 7, 1968

(1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs.

(2) The provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1(5) of the Agreement. It shall also re-examine the list of classes and subclasses annexed to the Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list.

(3) The International Bureau shall prepare the work of the provisional Committee and shall convene it as early as possible.

(4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.

(5) The travel and subsistence expenses of the members of the provisional Committee shall be borne by the countries which they represent.

EXECUTIVE K

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 Extraordinary Session, at New York, on the eleventh day of March 1971,

Having noted that it is the general desire of contracting States to enlarge the membership of the Council,

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, to increase the membership of the Council to thirty,

And having considered it necessary to amend for the purpose aforesaid 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 thirty contracting States elected by the Assembly."

Specified, pursuant to the provisions of paragraph a) of Article 94 of the said Convention, eighty as the number of 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, each 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 ratified 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;

The Secretary General shall immediately notify all contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States 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, being authorized thereto 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 remain 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 BINAGHI,
President of the Assembly.
ASSAD KOTAITE,
Secretary General of the Assembly.

Certified to be a true and complete copy. [SEAL]

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 LOCARNO AGREEMENTS

I. THE NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

PURPOSE

The express purpose of this Agreement is to set up an organization 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 essential to the development of foreign markets. A trademark provides important identification for a firm's products and services and serves as the focal point around which that firm can develop its advertising and sales promotion campaigns. The mark symbolizes to the public the goodwill, quality standards 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 those countries extend to their own 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 multicountry filing programs. Such a system, also, makes it easier to monitor publications of foreign trademark offices in which possible trademark infringements may be detected.

The most widely-used international trademark classification system is that currently established under the Nice Agreement, as Revised, Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, which was signed June 15, 1957. 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 52 product and 8 service classes and one "collective membership" class. The United States did, however, officially sign the Nice Agreement. The Stockholm revision of that agreement was assigned on July 14, 1967. On July 1, 1969, under the authority of the Federal Trademark Law (15 U.S.C. 1112), the U.S. Patent Commissioner adopted the Nice system as a subsidiary system. Senate advice and consent is now necessary for the U.S. to avail itself of the full benefits of the agreement, including membership on the Committee of Experts and participation on the Assembly. The agreement was submitted to the Senate on 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.

Article 1 states that all countries party to the 1957 agreement, as well as those party to 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 "the classification 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." Each contracting country reserves the right 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 the international 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, "amendment" is defined as "any transfer of goods from one class to another or the creation of any new class entailing such transfer."

Article 4 sets forth the requirements regarding the notification, entry into force, and publication 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 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 5 through 8 of this agreement shall require four-fifths of the votes cast (Article 8).

Article 6 states that the administration tasks of the Special Union shall be performed by the International Bureau. This Bureau also serves as the secretariat for the Paris and Berne Unions and all other Special Unions under the Paris Union.

Article 7 provides that, for the purposes of determining contributions, each country will be in the same class as the Paris 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 administration 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 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. The agreement will enter into force three months after a country's ratification or accession has been notified by 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).

II. The Locarno Agreement Establishing an International Classification for Industrial Designs

PURPOSE

The express purpose of this agreement is to establish an international classification for industrial designs. Such a system will facilitate the research into the existence of exclusive rights respecting a specified design or any variants thereof, and will be of material assistance in the implementation of United States design patent protection.

BACKGROUND

On April 11, 1963, the Director of the United International Bureau for the Protection of Intellectual Property (BIRPI) consulted the members of the Paris Union on their interest in adopting a more complete uniform classification of goods in which industrial designs are incorporated. The overwhelming number of positive responses gave rise to a series of preparatory working sessions which were held in Geneva from October 12 to 16, 1964 and from May 2 to 5, 1966. These preparations culminated at an international conference which was held in Locarno, Switzerland from October 2 to 8, 1968. The conference was attended by representatives from 41 countries. At the conclusion of the conference on October 8, the Locarno Agreement Establishing an International Classification for Industrial Designs was signed by 22 nations. It was submitted to the Senate on August 3, 1971.

PROVISIONS OF THE AGREEMENT

The final version of this agreement consists of 16 articles followed by an annex containing 31 main classes and approximately 200-odd subclasses of industrial goods. A summary of its major provisions is set forth below.

Article 1 establishes an international classification for industrial designs. Although "industrial design" is not specifically defined, it is understood to mean any new, original and/or ornamental design for an article of manufacture. In the United States, such designs are usually protected by "design patents." This article also provides that the contracting parties shall be constituted as a Special Union under the Paris Union established by the Paris Convention for the Protection of Industrial Property.

Under Article 2, each contracting party reserves the right to use the international classification as a principal or as a subsidiary system. The international classification shall not bind the countries as regards the nature and scope of the protection afforded to the design in those countries. In the United States the Patent Office has been applying, as a subsidiary system, the International Design Classification to its issued design patents since January 1969.

Article 3 creates a Committee of Experts on which each contracting party will be represented. This Committee will adopt the alphabetical list of goods in which industrial designs are incorporated and their explanatory notes. It will, also, be responsible for 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 publication 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 further the objectives of the Special Union. Decisions of the Assembly shall require two-thirds of the votes cast. However, amendments of Articles 5 through 8 of this Agreement shall require four-fifths of the votes cast (Article 8).

Under Article 6, the secretariat for the Special Union, as for the Paris Union, is the International Bureau, which serves as secretariat for all other Special Unions under the Paris Union and for the Berne Union established by the Berne Copyright Convention.

Other articles of the Agreement deal largely with Administrative matters.

DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 9, any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it. The Agreement will enter into force three months after a country's ratification has been notified by 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).

III. Committee Action

The Committee on Foreign Relations held a public hearing on the Nice and Locarno Agreements on the morning of November 19, 1971, at which time testimony was received from Mr. Bruce C. Ladd, Jr., Deputy Assistant Secretary of State, Bureau of Economic Affairs. Mr. Ladd's prepared statement is reprinted below.

In the afternoon of November 19, the Committee met in executive session and ordered the Nice Agreement and the Locarno Agreement reported favorably to the Senate for advice and consent to ratification.

STATEMENT BY BRUCE C. LADD, JR., DEPUTY ASSISTANT SECRETARY OF STATE FOR COMMERCIAL AFFAIRS AND BUSINESS ACTIVITIES, CONCERNING THE LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDIVIDUAL DESIGNS AND THE NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

Mr. Chairman, I am pleased to appear before your Committee to express the Administration's support for United States ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, and accession to the 1957 Nice Agreement concerning the International Classification of Goods and Services to which Trademarks are Applied and the 1967 Stockholm revision of that Agreement.

The Locarno Agreement was negotiated at a diplomatic conference in October 1968 in which the United States participated. It was signed by 22 countries, including the United States, on October 8, 1968. This Agreement entered into force in April of this year, three months after the deposit of the fifth instrument of ratification or accession.

As indicated by its title, the Agreement has as its purpose the establishment of an international classification for industrial designs. The establishment of the classification will encourage the harmonization of classifications of industrial designs in the various industrial property offices operating in that field. "Industrial design" generally means 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 and subclasses, and an alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State reserves the right to use the international classification as a principal or subsidiary system and that the international classification shall be solely administrative in character.

Provision is made under the Agreement for a Committee of Experts, on which all Contracting States will be represented, to adopt the alphabetical list of articles and the list of classes and subclasses in which industrial designs are incorporated and to be responsible for amending and adding to the list of classes and subclasses of the international

classification where necessary due to new developments in the field. The U.S. Patent Office has considerable expertise in this field as the U.S. is one of the countries in which design patents are subject to a search and examination. The list of classes and subclasses and the alphabetical list of goods were adopted on September 17, 1971 by the Committee of Experts.

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 are constituted as a Special Union under the Paris Union established by the Convention of Paris for the Protection of Industrial Property, last revised at Stockholm in 1967. We have been a party to the Paris Convention since 1885 and the Senate approved the Stockholm revision of that Convention in 1970. The secretariat for the Special Union of the Locarno Agreement, as well as for the Paris Union, is the International Bureau of Intellectual Property, which also serves as the secretariat for other Unions under the Paris Union.

The U.S. Patent Office has been applying the international classification to its issued design patents since January 1969 as a subsidiary classification, which is the principal obligation required of a Patent Office under the Locarno Agreement. The Agreement will facilitate searches to determine whether a particular design is new or novel, or whether it is already registered as an existing design here or abroad. It will also be of material assistance to the design patent operation of the U.S. Patent Office. No legislation will be required in order to implement the Agreement.

In December 1969 the Commissioner of Patents requested the views of the patent bar on the Locarno Agreement. No adverse comments were received.

Both the 1957 Nice Agreement Concerning the International Classification of Goods and Services to which Trademarks are Applied, which entered into force in April 1961, and the 1967 Stockholm revision of the Nice Agreement, which entered into force in March 1970, establish an international classification of goods and services to which trademarks are applied. Twenty-five countries are party either to the 1957 or 1967 texts of the Agreement.

The Agreement provides for a classification of goods and services for the purpose of registering trademarks and service marks. The classification is used in international registration of trademarks under the multilateral Madrid Trademark Agreement and in the natonal registration of marks by the national offices of more than 60 countries.

The classification consists of a list of 42 classes of goods and services, and an alphabetical list of products keyed to the classes. More than 20,000 items are covered in the alphabetical list. According to the Agreement, the list of goods and services may be amended and supplemented by a Committee of Experts on which all contracting States are represented.

The Agreement provides that the classification does not bind the contracting parties as to the extent of the protection afforded to a particular trademark or their recognition of services marks. Further, each contracting country reserves the right to apply the international classification of goods and services as a principal or subsidiary system.

The Patent Commissioner has authority under existing law to adopt a classification system and he has adopted the international classification as a subsidiary classification since July 1, 1969. It is highly desirable that the United States become a party to the Agreements so that, as a member in the Committee 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. The classification is useful to our trademark owners because it facilitates determination of proper classification for trademark filing in many countries and makes it easier to monitor publications of foreign trademark offices in which possible trademark infringements in foreign markets may be detected.

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 reclassification of our present domestic system which is now 50 years old and has not 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 Nice Union, which is also under the Paris Union of the Paris Industrial Property Convention. The secretariat for the Nice Union is also the International Bureau of Intellectual Property.

United States adherence to both the 1957 and 1967 texts of the Agreements is favored by the Patent, Trademark and Copyright Law Section of the American Bar Association, the United States Trademark Association, the American Patent Law Association and other associations of trademark owners and attorneys.

Thank you very much, Mr. Chairman, for giving me the opportunity to give you the Administration's views on these important agreements in the industrial property field on which we seek the advice and consent of the Senate.

TEXTS OF RESOLUTIONS OF RATIFICATION

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).

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, 1968 (Ex. I, 92–1).

PROTOCOL TO AMEND INTERNATIONAL CIVIL AVIATION CONVENTION

PURPOSE

The purpose of this Protocol is to increase the membership on 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 insure the safe and orderly growth of international civil aviation throughout the world. The organization carries on its activities through an assembly on which every nation a party to the convention is entitled to be represented. The Assembly meets annually, except in cases when it is deemed necessary to convene extraordinary sessions, and it is responsible for electing representatives to the Council of the organization. The composition and election of the Council which functions largely in an executive capacity, are governed by Article 50 of the Convention on International Civil Aviation. As amended by this Protocol, it reads as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of *thirty* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

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 existence in 1947, there were 57 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 convened at New York late 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 U.S. Government took the position 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 50(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 on the date on which the 80th instrument of ratification is deposited.

COMMITTEE ACTION

The Comimttee on Foreign Relations held a public 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 ordered the protocol reported favorably to the Senate.

The Committee is not aware of any opposition to the protocol and it recommends 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, up to and including the presentation of the resolutions of ratification, which 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 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).

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, 1968 (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 at New York, March 12, 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 the yeas and nays 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, it is so ordered.

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 America and a strong America are vital to each other and that a prudent defense policy belongs on any list of priorities, people know what he means. He has made clear that—

We can succeed 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 of the 70's 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, subject only to the requirement 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 even 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 have its champions, and we may take pride in being counted among them.—From speech to Commonwealth Club of California, March 5, 1971

In the current discussion of our national priorities there is a tendency to draw a sharp distinction between defense, on 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 not only 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 failure in the other.—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, and to respond effectively. But the capacity of our strategic force to survive is now coming into question. The relentless Soviet strategic and naval build-up poses a serious threat not to just one but to all three of the elements of our strategic deterrent.

If present 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 exposed and vulnerable.

Looking ahead, it is difficult to escape the conclusion that our interests and those of our friends and allies would suffer in a strategic environment in which the American power position was widely questioned, even though the Soviet Union may not have achieved a clear preponderance. We could expect Soviet intransigence in negotiations, and efforts at blackmail and intimidation across a broad range of foreign policy issues, with a consequent rise in the incidence of dangerous situations.

The hard fact is that if we are not to be pushed into a whole new build-up of strategic offensive weapons then 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 capacity of the United States to lead the common defense effort of the free world. Our leadership—our ability to bring together those independent states who value their independence and freedom—is the best guarantee of security for the American people.—From Senate floor speech, May 18, 1971

When it comes to the security of our country, I am not some kind of hybrid of shifting plumage. I am not a "hawk" or a "dove" or an ostrich. And I don't want my country to be 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 social justice, Norway has clean air and water and land—a splendid environment. But what good did all of that do when the Nazi boot stomped across that lovely country 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 freedom and 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

In relations with the Soviet Union the free world must pursue two consonant courses of action: to work with them where interests converge, and at the same time to maintain the strength and the resolve to discourage peace-upsetting moves by them.

We should have learned by now that the way to encourage a reasonable response from Moscow is not through weakness but through strength. The way to negotiate successfully with Soviet leaders is to maintain the strength to make negotiated agreements

more attractive to them than continued disagreements—as in the case of the Austrian Peace Treaty and the limited nuclear test-ban treaty.

It is with this point of view that I have favored efforts to limit the spread of nuclear weapons—and at the same time have opposed 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 up the Western deterrent, I say: you are not proposing risks *for* peace, you are proposing a policy 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 efforts to conclude a SALT agreement covering the whole range of systems under consideration.

I have come to the conclusion that we ought to consider a partial, interim agreement with the U.S.S.R. that would at once have the effect of slowing the strategic arms competition and adding to the immediate security of the strategic balance. Such an interim measure would be both simple and immediate: simple so as to obviate complex negotiation and immediate so as to arrest 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 offensive potential of the Soviet forces.

Specifically, I propose a mutual U.S.-Soviet agreement for an initial period of one year providing the following:

(1) The United States would immediately halt the deployment of Minuteman III missiles with their MIRV warheads.

(2) The Soviet Union would immediately halt the deployment of new ICBM launchers and missiles including those now under construction.

(3) Both countries would retain the freedom to assure the survivability of their strategic land-based forces so long as they did not add to their offensive potential.

(4) Neither side would deploy a population defending ABM.

I would hope that the United States would act immediately to propose the interim freeze that I have outlined. The stability of the strategic balance and the prospects for a comprehensive SALT agreement would be greatly improved by such a move.—From Senate floor speech, March 29, 1971.

It is essential that we spare no effort to obtain agreement with the Soviets to limit both offensive and defensive strategic weapons. I am persuaded that our persistence in endeavoring to limit Soviet offenses while discussing limitations on defensive systems is crucial to a sound national security policy.

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 confident that the American people will continue to support American insistence on an overall agreement.—Comment to press, Washington, D.C., May 20, 1971.

EUROPE

The hopes of the world for peace with freedom continue to depend chiefly on a strong and confident Atlantic community. The North Atlantic area is still the decisive area and the requirements of the NATO deterrent deserve a very high priority.

The important unfinished business of the Atlantic Alliance is to reach a genuine, stable European settlement with the Soviet Union—to create conditions in which people can speak meaningfully of Europe instead of Western Europe or Eastern Europe, and to 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 combat forces in Europe without corresponding concessions from the Soviet Union, without a *quid pro quo*—especially so when the concessions we ask are but contributions to a peaceful future 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 effective military and political arrangements for an equivalent reduction and redeployment of their forces.—From Senate floor speech, September 1, 1966

Since 1966 resolutions have been introduced which in effect call for a substantial reduction of U.S. forces stationed in Europe. Some proponents talked confidently of 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 tune, 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 crucial East-West negotiations on arms control at SALT. The situation in the Middle East is highly explosive, as the Soviets exploit the tragic conflict between Arabs and Jews in pursuit of their priority interest—to multiply their influence in the Mediterranean-African area on the southern flank of NATO.

A major and as yet unachieved purpose of the Atlantic Alliance is to reach a genuine, stable European settlement with the Soviet Union. Among other things, such a settlement will involve the return of Soviet forces to the Soviet Union. How can the Soviet Government be encouraged to move in this direction? Clearly, we should sustain our bargaining position and actively pursue acceptance of *gradual and balanced reductions* in forces on both sides of the Iron Curtain.—From Senate floor speech, May 13, 1971

Without consultation, without collaboration—and in a capricious and disruptive way—Mr. Nixon imposed a foreign economic policy designed to cover up the long and dismal failure of his now-abandoned "game plan." This is no way to restore stability and mutual prosperity to the economy of the free world. Nor is it the way to restore international confidence in America's economic leadership.

It is the responsibility of the United States to convene an Atlantic Trade Conference with the free nations of Europe in order to expand trade and foster economic relations on a fair and equitable basis. I strongly believe that American workers and farmers should be represented at such a meeting. Decisions on international economic policy have already been made which have affected the security of our working people and our farm communities. It's time to make the voices of labor and agriculture heard in the councils of international economics.—From remarks, New York City, December 4, 1971.

MIDDLE EAST

The hand of the Soviet Union is stirring a witch's brew for the Free World in the Middle East.

If it isn't clear outside the USSR, it certainly is obvious inside the Soviet Union that Egyptian dictator Nasser has the full backing of the men in the Kremlin. He must be stopped, because dictators thrive on concessions and indecisions—such as those which have characterized our handling of the Suez crisis.—From article by Senator Jackson, *Seattle Post-Intelligencer*, September 27, 1956.

This country and Israel, whose security is threatened by the current crisis in that region, are bound together by shared values, cultural affinities, and a common ethical and religious heritage. Unlike some countries of the Middle East, Israel is a stable democracy, and a profoundly egalitarian and spirited one. These qualities, too, inspire the respect of many Americans, who feel something like a sense of personal involvement in the destiny 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 transcends the tragic conflict between Arabs and Israelis. The policy of Russia to manipulate the conflict 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 search for peace and stability in the Middle East will be resisted rather than supported by Soviet policy.

We should recognize that the best prospect for peace in the Middle East lies in discouraging radical Arab hopes for the eventual military 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 that end 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 report to the Senate Armed Services Committee on "The Middle East and American Security Policy", December 1970.

I do not need to speak at length of the cruel mistreatment of the Soviet Union's Jewish minority. It is all too well known. We have seen the trials. We have reports of the arrests. And, perhaps most convincing of all, we have the testimony of those courageous men and women who have spoken out in letters to the West and signed petitions and even participated in open demonstrations. We cannot stand by without using such weight as we in America possess on behalf of those innocent Soviet Jews—victims of persecution—whose chief desire is for spiritual and cultural expression. We who freely possess these rights have an obligation to speak for those who do not.—From Senate speech introducing resolution regarding persecution of Jews and other minorities in USSR, July 12, 1971.

I am convinced that at this moment the single most important step this country can take to help bring a measure of stability to the troubled Middle East is to make plain our determination that we will not prejudice Israel's ability to deter 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.

Our most urgent immediate task in the Middle East is to acknowledge that the unrestrained flow of sophisticated weapons to Egypt from the Soviet Union has jeopardized the balance of power in a most dangerous way. We can preserve the peace in the Middle East but only if we recognize that it is

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 where weapons and credits are no longer needed.—From Senate speech introducing his amendment appropriating $500 million credit aid for Israel, November 23, 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 25-nation arms control meetings in Geneva. We should press Peking for the reopening of the bilateral U.S.-China Ambassadorial talks and be prepared to make constructive suggestions for discussion and negotiation. These suggestions should include: the start of mutual U.S.-Chinese exchanges of reporters, scholars, scientists and cultural performers; the improvement of trade relations between U.S. and Mainland China, including the mutual reduction of barriers to trade; the subject of Mainland Chinese participation in the United Nations and other international bodies on terms that would not exclude the Republic of China on Formosa.

It is time that both the Americans and the Mainland Chinese recognized that they have a mutual interest in, and a mutual responsibility for, peace and 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 in New York to improve our relationships with Peking.

It is obvious that sometime, somehow, the Mainland Chinese regime will have to join in the negotiations on arms control. No strategic arms control agreement with a loophole as large as China could survive Chinese acquisition of a substantial nuclear force.

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 need 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 what we can to improve mutual 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. The pursuit of such reciprocal activities might well form a basis for a restoration of diplomatic relations between the United States and the People's Republic of China.—From speech to Boston World Affairs Council, April 22, 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 to achieve a reasonable compromise with an adversary who has not wished to compromise.

High on the agenda of any talks should be a mutual cease-fire—a stop to the fighting on both sides, to end the killing and the bloodshed and the destruction.—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 over to the South Vietnamese, at the same time we should make this effort to achieve a cease-fire and an end to all the killing in South Vietnam, and not simply an end to American involvement in it.—From letter to President Nixon initiated by Senators Jackson and Scott, and co-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 the President's October 7 proposal for a standstill cease-fire in Indochina (a proposal which thirty Senators, as you know, joined in making in early September).

The period of an extended cease-fire should be used for an intense diplomatic effort through every appropriate channel and in key capitals to develop support for the permanent standstill cease-fire urged by the President on October 7, and for a political solution based on free elections which both sides have in principle favored.

We should also seek the earliest opportunity to begin to institute in eventual concert with the North Vietnamese and NLF, the necessary machinery for international monitoring necessary to a permanent standstill cease-fire.—From letter to 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 coups, the polarization and the frustration harden attitudes and encourage violence, rather than a political solution.

The administration should stop pretending to be helpless, saying there is nothing more to be done. The United States still has sufficient influence in Vietnam to see that a pointless referendum is transformed into a meaningful political contest.

The commitment of 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 Senate floor 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 ground combat troops could be out by the end of this year. I believe that that was an achievable goal. It's now, however, set for February 1. I want to get all of the remaining forces out, but I would leave to the President, at this point in time, to see how well he does in negotiations and discussions that are coming up both in Peking, by the way which 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 options. 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 disagreed 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 out, and about four of us blocked an attempt, 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. That'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 situation, no matter 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 worth what it cost, for it enabled Western Europe to recover its strength. Without the Marshall Plan some countries might have fallen into communist hands—with the result that the task of defending the United States would today be far more costly than it is, and that the cause 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 the interests of the recipient; and

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 not unreasonable. On all too many occasions, foreign assistance has proved wasteful, inefficient, and self-defeating. Perhaps the strongest indictment against it is that it has fostered a mood of dependency among some of our allies—to the point where we have undertaken burdens they are capable of carrying by 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 giveaway" from which we have never derived any benefits. Prudent foreign assistance programs have served—and can continue to serve—the best interests of the United States.—Statement, Washington, D.C., November 2, 1971

LATIN AMERICA

In the past few years multilateral 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 creditors to work through or with an international agency like the World Bank, for it may be easier for an agency of this kind to impose reasonable economic requirements on the borrower than for a creditor government, which may be tempted to give undue weight to political considerations.—Remarks to American Association of University Women, Seattle, Washington, October 1968.

Most Latin American countries recognize that private investment can play an important role in the economic development of the hemisphere, and have been attempting to improve the investment climate. The few Latin American leaders who have given into the temptation to use the issue of a private American economic presence in a demagogic manner have done their peoples a disservice; the Cuban experience demonstrates that wholesale expropriation cannot solve a nation's economic problems.

When questions of compensation for nationalized properties arise, questions of face are also often involved. Therefore, I would like to see the Organization of American States establish a new compensation review board to work out a continent-wide policy and see it is implemented. This would place the responsibility for equitable treatment in the hands of the hemispheric governments as a whole, and help remove the tensions that arise when nationalization remains a solely bilateral problem.—Comments, Washington, D.C., December 6, 1971.

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 dynamics of the free enterprise system will be seriously impaired.

Today we are falling far short of meeting the legitimate expectations of many Americans. Too many Americans cannot find decent housing. Too many Americans are exposed to second-rate educations. Too many Americans are denied access to good health care.

Our cities and states verge on bankruptcy. Their capacity to provide basic public services is grossly inadequate. The quality of life in those urban areas where most Americans live is steadily declining.

Only the resources generated by vigorous economic growth can give us the ability to deal with problems of this scope. But even the Administration's own growth projections do not promise a sufficient increase in Federal revenues to enable us to do what needs to be done. Indeed, with the rates of growth currently projected, the poor, the undernourished, the underprivileged and the unemployed will have little to look forward to but more of the same—or worse.

We can and we must do better.—From speech to Economic Club of New York, May 4, 1971.

The truth is that the current rate of economic growth is less than half what it should be to keep pace with the normal growth of the labor force. In the next nine months we have more than half a million men being discharged from our armed forces. Next June we will have two and a half million high school and college graduates entering the job market. And don't forget that we still have almost six million Americans unemployed as I speak here today.

Given these facts, it seems clear that we must provide greater stimulus to economic growth through a careful combination of Federal spending and tax cuts. Restoration of the tax investment credit is long overdue. And temporary personal income tax cuts will spur essential consumer spending if we can restore people's confidence in national economic policies.

Beyond this, we must take direct action to create jobs through aid to depressed areas, public works programs and public service employment. Earlier this year I introduced, and the Senate has already passed, the Economic Disaster Relief Act to provide emergency Federal aid to areas suffering from high unemployment. This would authorize special grants for housing, relocation, unemployment assistance and job retraining. At a time when we have so many depressed areas, this kind of program is essential.

I am also convinced that as long as substantial unemployment persists, we must create a minimum of 500,000 job opportunities in the public sector. To supplement the program already authorized, I have introduced a bill to provide jobs for workers in the nation's parks, forests, recreation areas and public lands.—From speech to National Alliance of Businessmen, October 11, 1971.

THE ENVIRONMENT

As sponsor of the National Environmental Policy Act, I have watched with interest the growing use of its provisions in suits involving environmental issues. The simple assertion, for the first time in our history, of a national policy toward the environment, has provided lawyers with a potent weapon . . .

I intend to press for inclusion of a provision recognizing that every American has a fundamental and inalienable right to a healthful environment . . . such a statement was included in the original bill I introduced. Because of opposition to this language, the final version simply recognizes that everyone "should enjoy a healthful environment." In my view, there is a big difference between the statutory recognition of a basic right and the expression of a pious hope. I believe that we do have the legal right to a healthful environment and that statutory recognition of this right is both necessary and desirable at this point in our history.—From speech at Smithsonian Institution, January 28, 1971.

A National Land Use Policy is, in my view, a next logical step in our effort to maintain a quality environment.

Land use planning is an essential tool of environmental management for the future. Most existing problems of population density, pollution, and congestion are directly or indirectly attributable to past shortcomings of land use management—to poor selections among alternative uses of land . . .

The pressures upon our finite land resource cannot be accommodated without better planning and more effective control. Our land resources must be inventoried and classified. The Nation's needs must be catalogued, and the alternatives must be evaluated in a systematic manner.

These and other concerns can only be met if governmental institutions have the power, the resources and the will to enter into effective land use planning, if plans at all levels of government are coordinated, and if public decisions on land use are backed up with effective controls in the form of zoning and taxing policies.

I have therefore introduced legislation in the Senate to establish a "National Land Use Policy."—From speech to Princeton University Conference, March 9 1970.

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, public safety and recreation. Such aid could be distributed not simply on a per capita basis but on a combined population-poverty basis to give greater help to cities with the highest concentration of poor people and public need . . .

Emergency aid and public service employment are important in today's economic climate but they will not substitute for some more fundamental reforms. Let me mention some of the reforms I have in mind:

Why shouldn't the federal government assume full responsibility for welfare, thus relieving the states and cities of this heavy burden?

Why shouldn't the federal government make a significantly larger contribution to the nation's total bill for elementary and secondary education, perhaps 25 percent instead of the 8 percent paid now?

Why shouldn't states be required, after a suitable interval and as a condition of federal aid, to have progressive income tax systems?

Why shouldn't states and local governments be strongly encouraged to put their own houses in order, through governmental reorganization and consolidation of overlapping inefficient units, giving local officials the powers they need to do their jobs?

I believe we must accept this kind of change if we are to improve the quality of life in our cities. Band-aids, retreads of old programs or rhetoric from Washington, D.C. will not suffice to deal with the condition of our own urban areas.—From Remarks to League of Oregon Cities, November 15, 1971.

All across America we have created a confusing and expensive maze of boards, agencies, townships and districts to trap our cities in a hopeless bureaucratic web. We are sending mayors into the front lines without the weapons to do the job: they do not have jurisdiction, they do not have authority, they do not have resources.

The truth is that with few exceptions, we have no effective government at all for most metropolitan areas. That is why the urban crisis is not just a fiscal crisis—it is a crisis in our ability to make government work.

I am convinced that if we do not come to grips with this crazy-quilt of impotent, overlapping, undernourished and costly local governments, the urban crisis will remain with us for the next generation. I am convinced that if we cannot modernize and simplify our urban governments, no amount of Federal funds will make them work. It is high time we faced up to the fact that money alone is no panacea for the ills that afflict American cities.

If the resurrection of our metropolitan areas requires the abolition of inefficient, limited purpose governments, let us get rid of them. If it involves creating a new class of

urban executives empowered to make cities work, let us do it. If it demands the creation of new regional governments with jurisdiction to deal with problems as a whole, let us do it.—From remarks to the Greater Detroit Chamber of Commerce, June 3, 1971

AGRICULTURE

American farmers are growing more and earning less. They feel threatened by low farm prices, the growth of corporate giants in agriculture and a national Administration which has failed to develop a constructive farm policy.

There is nothing in the background or philosophy of Earl Butz to reassure the thousands of farmers who look to the Secretary of Agriculture to represent their interests. They have already experienced him in action at the Department of Agriculture—and it wasn't a pleasant experience. And they know that 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 foredooms any chance for reforming this Administration's farm programs. Without broad support in the farm belt, Mr. Butz cannot hope to build a consensus for progressive farm policies. Under these circumstances, and particularly in light of Monday's vote in the Senate Agriculture Committee, the President should withdraw this nomination.—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 3 percent above those received during the 1947–1949 base period. The farmer's share of the retail food dollar was 47 cents in 1950 and 39 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 first step but experience has shown that we still have not achieved a proper balance between the economic power of the buyers and the sellers of farm products. It is particularly important that this balance be achieved as more and more farm products are sold under production and marketing contracts . . .

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 strengthen 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 made by Congress mean the difference between mediocrity 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. My response is that the children in 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 from rising costs and declining tax revenues. The impact of high interest rates—the highest since the Civil War—has severely restricted school construction and modernization. The cost of educating each child jumps about 10 percent a year—and average spending per public school pupil is estimated to have risen to $717 in 1970 from $454 only five years ago. But more than half of public school revenues are still being provided by local taxpayers. No wonder that local school taxes have risen more than 140 percent in the last decade!

There is a limit to the burden that can be imposed at the local level. Considering the demands on the local tax dollar and the broader reach of the Federal taxing power, the Federal contribution to local school costs falls far 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 mix 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, regardless of the circumstances into which he or she is born.

Unquestionably, some students must be bused to school if they are to reach school at all. In our preoccupation with busing we are forgetting that a bus ride to a poor school is a bus ride to nowhere. It's high time we moved beyond the busing controversy to 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 to force a child to be bused from a good school to an inferior school.

I would rather go in the direction of the California State Supreme 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 massive commitment of talent and resources to achieve equality of education opportunity.—From statement issued November, 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 H.E.W. into two cabinet departments, separating out 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 narrow limits of its traditional concerns. This new mandate must cope with the high cost of health care, the rising tide of drug abuse and alcoholism, and the waste of resources in the health field . . .

Let me be frank to say that the time for laissez-faire in our health care system has long since passed. We cannot afford it. And health care institutions should be on notice to put their house in order or risk forms of regulation they may not like . . .

The shortage and maldistribution of our medical manpower is a serious national problem which clearly requires national solutions. It deserves as much priority attention as proposals for national health insurance.

The only sure way to free every American from the burden of staggering medical bills is some form of national health insurance. I believe we must start now building a system of comprehensive health insurance, beginning with two great unmet needs: coverage for the poor who do not have and cannot afford insurance and, second, coverage for all against catastrophic illness . . .

The Federal Government must encourage innovative approaches to provide more health professionals. We must be prepared to put Federal prestige and dollars behind programs to increase the output of doctors and nurses and make better use of their skills. We must not be tied to tradition or bound by the old ways of doing things . . .

We have work to do. As long as the right to good health and decent medical care is denied for any reason to any American, our job is unfinished. Good medical care is no longer the privilege of the rich—or the white—or the lucky. Decent health care is a basic right for all Americans.—From speech to Public Health Association, October 12, 1971.

OLDER AMERICANS

I do not subscribe to the 'out of sight, out of mind' philosophy. One of this country's foremost responsibilities is to see that our aging are free from hunger and poverty.

It is a sad commentary that nearly one-third of those over 65 are living in poverty. In fact, this is the only group in which poverty is increasing. We must improve our social security and tax laws to assist those on fixed incomes to cope with rising costs.

While Medicare has provided some needed assistance, the hard fact is that less than half of the health costs of the aging are covered by Medicare. We must expand this coverage . . .

We need more than pre-arranged conferences by an unresponsive administration. What we need is a new philosophy and a new strategy. We need a philosophy which does not forget the older American; a new philosophy which does not perceive the aging as passive and happy to merely exist on social security.

And we need a new strategy. A strategy which identifies the aging as an important force; a strategy which embraces reforms in income maintenance, and health care and employment. Such a new strategy would utilize the great potential which you have and the great contribution you can make; a contribution which doesn't end at some arbitrary age level of 62 or 65 or 70.—From remarks to 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 holed up in rooming houses and apartments worrying about health bills that Medicare won't cover, watching their savings being eaten away by inflation and despairing about a government that says "go away."

A nation of wealth and compassion cannot tolerate old people, with untapped 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 is, not as the mythmakers would have us think.

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 make bail . . .

The fact is we are paying a high price for overloading our criminal courts. And I think it's high time we had a new national commitment to revive our system of criminal justice—starting with the goal of making our courts work.

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 the system. It may be a question of more grand juries or better court administration. It may be a need for public defenders. It may be the need for new approaches to handle some of the routine cases—like prostitution and drunkenness—that burden the courts.

I believe that the states should be required to submit detailed programs for achieving trial of criminal cases within sixty to ninety days of arrest. And Federal funds must be made available to make these programs work. If a state is not making honest efforts towards the prompt trial objective, it should not qualify for continued Federal support.—from Remarks to Queens Chamber of Commerce, December 8, 1971

Today in America the stability of our democratic system is threatened by the tyranny of a small minority that is systematically disrupting our society while too many Americans sit complacently on the sidelines . . .

As far as these militants are concerned, the rights of the majority do not exist. The right of people to travel a highway, of a storekeeper to be free from terroristic attacks, of a speaker to be heard or a student to attend class, these kinds of rights have no place in the world of these revolutionaries . . .

The American people have a sense of fair play and they will tolerate a good deal in the name of dissent. But they are no longer willing to tolerate the violence and civil disorder or the intolerance of this new brand of American extremists . . .

. . . beyond the problem of punishing the lawbreakers, is the challenge to all men of moderation to reject, visibly and vocally, the forces of extremism. For the stable, sensible majority, the spectator's role is no longer enough. It is time that we stood up for the democratic process and asserted our faith in the capacity of our system to grow and change without resort to violence.—From statement issued June, 1970

At the very root of the rule of law which we honor today lies the concept of the oneness of the law—one law, one standard, one justice for all. Yet we are increasingly aware that this fundamental concept is honored more in the breach than in the observance, that the principle is—all too often—lost in the practice.

We are tolerating not only one law for the poor and one law for the rich. We are, as well, accepting submissively one law for the young and one for their elders; one law for the dissident and one law for the conformist; one law for the man in uniform and one law for the civilian; one law for the uneducated and one law for the college graduate; one law for the small tax-payer and one law for the large tax-avoider; one law for the ordinary voter and one law for the big contributor; one law for the buyer and one law for the seller; one law for the borrower and one law for the lender.

This is wrong. We know it is wrong. Yet among those who have chosen, by their profession, to serve as custodians of the law, there remains all too often a curious passivity toward these wrongs. It is not enough for affluent practitioners, able professors or active public servants to sit in the sanctuaries of the law factories, or in the quiet of academic halls, or in the spotlight of daily affairs talking about equal rights and legal remedies.

We must not only talk the law, we must live it.

The alternative seems clear: a steady decline in respect for the law, 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.

The second assistant legislative clerk proceeded to call the roll.

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

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

SUPPLEMENTAL APPROPRIATIONS BILL, 1972—CONFERENCE REPORT

Mr. ELLENDER. Mr. President, under the previous order, 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. 11955) making supplemental appropriations for the fiscal year 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. ELLENDER. Mr. President, the supplemental appropriations bill, 1972, passed the House of Representatives on December 2. It passed the Senate on December 3, with 75 amendments. The conferees were in session all day on December 7 and met again, and completed action on the amendments in conference, on December 9. The conference report is available to all Members.

The bill as it passed the Senate approved appropriations in the amount of $3,998,045,371. 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 Senate 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 by the time the House considered the supplemental appropriations bill.

Some of the large increases over the House bill effected by the Senate were: $817,597,000 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 $591,660,000.

As I mentioned previously, there were 75 amendments in disagreement and it was necessary to compromise all of our differences.

One of the largest single increases the Senate had effected was $817,597,000 recommended for "Manpower training services." In conference, the conferees agreed to recommend an appropriation of $776,-717,000. The authorizing legislation for 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 conferees. The OEO authorizing bill was later vetoed.

The Senate bill contained $265,000,000 for "School assistance in federally affected areas." This particular amendment consumed a great deal of time during the discussions, and it was not possible for us to prevail and to secure any part of this appropriation.

Another large increase approved by the Senate was for "Health manpower." Under Senate amendment numbered 28, an appropriation of $707,157,000 was made for this purpose. This is another 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 $492,980,000.

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 program contained a proviso making the appropriation contingent upon enactment of the authorizing legislation. In view of the discussions concerning a possible veto of the OEO authorization bill, the conferees have deleted the proviso.

The House, of course, agreed to all of the Senate amendments relating to the Senate. Again this year, the House was adamant, 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 $102,400,000 for "Construction, Corps of Engineers," and the House agreed to this entire amount.

The Senate bill also contained authority to utilize not to exceed $20,153,000 of previously appropriated funds for the "Economic stabilization activities" inaugurated recently by the President, and the House conferees agreed to go along with the Senate amendment.

I will be glad to answer any questions any Members may have with respect to the bill. In addition, the chairmen of the various subcommittees are available to participate 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 chairman 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 the House. 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.

The PRESIDING OFFICER. Who yields time?

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 well nigh disastrous, and, as we will be going at these things again in other supplementals and other appropriations, I will not engage my colleagues in extended debate on the acceptance or rejection of the fiscal year 1972 supplemental appropriations conference report. I think it is critically important to make the record clear as to manpower training, health manpower programs, Neighborhood Youth Corps, and so forth.

The conferees agreed, in regard to manpower administration, on about one-half, in round figures, of the some $80-odd million 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, 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 Washington (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 the weight of their position, in order 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, disastrously, is in respect of a number of items which relate, as was stated 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 with 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 implementing the comprehensive authorizing legislation for health manpower which we passed on July 14, 1971, and was enacted into law as Public Law 92–157 and Public Law 92–158.

One week ago today I urged a separate rollcall vote on the health manpower amendment of the supplemental appropriations in order to strengthen the hand of the Senate conferees. I did this because I was deeply concerned about the fate of this measure when it is in conference with the House. The House Appropriations Committee held no hearings on the manpower and nursing supplemental requests and their bill had no dollar recommendations in this area. I was concerned that without a basis for independent judgment they would insist on accepting the administration's proposed budget, which I regret did not adequately respond to health manpower needs; the basic underpinning for any reform of our health care system, with which we also are deeply concerned.

Mr. President, to show how sharply these cuts took place, I would refer to the following:

I. Capitation grants for institutional support:

A. $200,000,000 authorized for medical, dental and osteopathy schools.

$120,000,000 requested by Administration.

$160,000,000 provided by Senate Appropriations Committee.

$130,000,000 provided by Conference, a $30,000,000 reduction.

B. $34,000,000 authorized for veterinary, optometry, podiatry and pharmacy schools.

$20,400,000 requested by Administration.

$30,000,000 provided by Senate Appropriations Committee.

$25,200,000 provided by Conference, a $4,800,000 reduction.

C. $78,000,000 authorized for nursing schools.

Nothing—requested by Administration.

$63,000,000 provided by Senate Appropriations Committee.

$31,500,000 provided by Conference, a $31,500,000 reduction.

II. Student Assistance, loans and scholarships:

A. $75,000,000 authorized for loans, for students at all schools ($51,000,000 previously appropriated).

Nothing—supplemental Administration request.

$14,000,000 supplemental allowance provided by Senate Appropriations Committee.

Nothing—supplemental allowance provided by Conference, a $14,000,000 reduction.

B. $111,700,000 authorized scholarships for students at all schools ($35,000,000 previously appropriated).

Nothing—supplemental Administration request.

$35,000,000 supplemental provided by Senate Appropriations Committee.

Nothing—supplemental provided by Conference, a $35,000,000 reduction.

III. Construction Grants:

A. $335,000,000 authorized for medical, dental, and other health profession schools, exclusive of nursing schools.

$82,000,000 Administration supplemental request.

$182,616,000 provided as supplemental appropriation by Senate Appropriations Committee.

$142,385,000 provided as supplemental appropriation by Conference, a $40,231,000 reduction.

B. $35,000,000 authorized for nursing schools.

$9,500,000 Administration supplemental request.

$25,000,000 provided by Senate Appropriations Committee.

$19,500,000 provided by Conference, a $5,500,000 reduction.

Thus, in capitation grant institutional support for medical, dental, and osteopathy schools we have improved over the administration request from 60 to 65 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 school capitation grant institutional support now at 40 percent—where the administration had zero—but down from the Senate amendment 83-percent support level.

In addition, the conference report eliminates other vital education funds; namely, $65 million under Public Law 874, the impacted aid program, for initial funding of the low-income housing provision, category "c" children, so-called, who 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 schoolchildren in local districts throughout the Nation. It is indeed unfortunate that funds were not furnished for this effort which, I might add, I had authored in cosponsorship with the distinguished Senator from Missouri (Mr. EAGLETON).

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—no funds have been provided for so-called section 5 construction since 1967 and moneys are badly needed, especially for American Indian children.

Mr. President, rather than crying about spilled milk, by point in rising here today is to call attention to what I consider to be the flouting of a very important provision of law. We provided, Mr. President, in the Health Training Improvement Act of 1970, 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 to our medical and dental schools. Congress called for that 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, Elliot Richardson, signed by me, ranking Republican member of the Labor and Public Welfare Committee, by the Senator from Pennsylvania (Mr. SCHWEIKER), 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

was ordered to be printed in the RECORD, as follows:

DECEMBER 1, 1971.

Hon. ELLIOT RICHARDSON,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: As you know, the Health Training Improvement Act of 1970 (P.L. 91–519) contains a provision authored by Senator Javits which sets forth the Congressional finding that the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools. The provision requests the Secretary to "determine the need for emergency financial assistance to such medical and dental schools" and "report to the Congress on or before June 30, 1971" regarding "his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs."

Unfortunately, although requested, the report was not available to the members of the Senate Health Subcommitte in their deliberations on the development of comprehensive health manpower legislation. Nor was it available to the Conferees during their extensive efforts to resolve vital funding differences between the House and Senate manpower bills.

Although it is now more than four months after the report was due pursuant to P.L. 91–519, our staffs have advised us that they have been regularly informed by the Department of Health, Education, and Welfare, on behalf of our interest in the matter, that the report was "done" but not "officially" available.

As the Senate prepared to consider health manpower supplemental appropriations within the next week, we believe it is essential that the long overdue report on the medical and dental schools' need for financial assistance be made available to the Congress. Copies of this report will be most important to the Senate as it considers establishing appropriations for health manpower and we are, therefore, hopeful that it will be promptly made available.

JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
HARRISON A. WILLIAMS,
EDWARD M. KENNEDY.

Mr. JAVITS. Mr. President, I most strongly protest that particular denial of information which is absolutely essential. I attribute the denial of that information in great part to the massive cuts that are so harmful to the whole matter of health delivery which have been made in this supplemental appropriation.

I will do my utmost to find a way in which Congress can make it clear that it will not simply be frustrated by the sheer unwillingness—and I use all of these words advisedly—of the executive department to cooperate in giving the information, basic information, to which Congress is legitimately entitled.

I shall do my best to use every means available to me, including the possibility that we may be unable to act on measures they eventually want by virtue of this denial, which I consider to be unjustified and uncalled for.

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

Mr. ELLENDER. I yield 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 this information.

Finally, I wish also to invite the attention of the Senate to denial 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 essentially needed to be made in this matter.

I thank my colleagues for yielding and for their cooperation to the extent I have specifically spelled 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 brought up by the distinguished Senator from New York.

In my own opinion the health manpower appropriation was by far the most important item in the entire supplemental appropriations bill. If it 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 the 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 priorities 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 consequently 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 conferees, and 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 on these matters that are so vital to the training of the manpower to meet 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 by which 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 increase. I wanted the RECORD to show that.

I thank the Senator from New York for giving us credit for doing our best.

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

Mr. COTTON. I yield.

Mr. JAVITS. I thank the Senator.

Having sat with him in conference, I know how indefatigable he is in trying to fight for the Senate position.

Mr. COTTON. I thank the Senator.

Mr. GRIFFIN. Mr. President, I am unable to indicate approval of this conference report without at least registering in the RECORD my deep disappointment, and I know I speak for the senior Senator from Michigan as well as myself, because the two of us worked very closely in an effort to try to get funding for a Federal building in the downtown area of Detroit which already has been named after former Senator Patrick V. McNamara.

This building was authorized in 1963. There is only one other building that has been authorized as long as this building without being funded. The plans have been ready for several years. There is a 2.5-acre tract in the center of the city, which is grown up in weeds and it is now off the tax rolls. The Federal Government is spending $2.5 billion a year renting space to accommodate various agencies and offices because this building has not been built.

One of the agencies that needs space the most is the FBI.

Crime is very bad in the city of Detroit and it is very demoralizing that in the inner city of Detroit the Federal Government delays and delays, which indicates that, like others moving out of the city of Detroit, perhaps the Federal Government is not going to build this building. Psychologically it hurts.

But in addition, the estimated cost of the building has gone up from $27 million originally to an estimated $48 million because we delayed for 9 years on this building to be named after a former colleague in the Senate.

In the debate earlier on the regular appropriation, the Senator from New Mexico (Mr. MONTOYA) promised he would consider this in connection with the supplemental, and the senior Senator from Michigan (Mr. HART) and I appeared before the subcomimttée, and he agreed to put in $11 million for the substructure to get the building going.

I guess we made a mistake. We should have pressed for the whole amount. We thought we were being very reasonable, but as Senators have indicated, this was not agreed to in conference by the House.

I want to indicate the circumstances. I know the Senate conferees did fight for this measure. I am aware of that and I appreciate what was done.

I wonder if either the chairman or the ranking minority member might give us some enlightenment as to what the situation might be next year with respect to this building.

Mr. ELLENDER. I wish to say that, as the Senator stated, the Senate conferees did their best to maintain the amount for the substructure in the bill but Representative TOM STEED, who is chairman of the House Appropriations Subcommittee, objected strenuously. His chief argument was that by constructing this building piecemeal—that is, putting the foundation or substructure in first and later the superstructure in a subsequent appropriation bill—it would cost a good deal more.

He promised us that come the next fiscal year he would put the entire amount in so that one contractor could get a bid on the construction of the whole building and in that way the Government would save money. That is the argument he made to us and he would not agree to put

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 economy-minded and asked for the full cost he might have gotten his building approved, but I believe putting in the substructure as he proposed would not have added to the cost. In fact it could well have saved money.

Representative STEED thought we should not do this piecemeal but he did agree to put in the full amount for the building next year.

Mr. GRIFFIN. I thank the chairman and the ranking Republican Member for their statements. I hope the senior 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 Representative STEED has in mind.

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 this 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 1963.

The federally owned site for the building in downtown Detroit has been vacant for a number of years.

This year some progress was made toward securing funds for the project.

The Senate Appropriations Committee and the Senate added $11.2 million to this supplemental appropriations bill which would have financed construction of the building's substructure.

At this point I want to thank Senator MONTOYA, chairman of the Senate Appropriations Subcommittee on Treasury, Post Office, and General Government, for the leadership he gave in guiding this amendment through the Senate.

Unfortunately, the House conferees 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 partial funding approach.

Let me say at this point that, when Senator GRIFFIN and I testified before Mr. STEED's subcommittee, we found him most responsive.

His responsiveness is indicated, I believe, by the statement he made on the House floor yesterday concerning the McNamara building.

Mr. STEED said:

> So far as I know, I know of no other project in the country that is more badly needed than the Detroit one, and I intend to do everything I can to see that it is in the next budget.

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 will do all we can to 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. Again I thank Senator MONTOYA for his strong support in this matter.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. 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 speak on the conference report on H.R. 11955, 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 conferees on this measure, who had 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 92–157) and the Nurse Training Act of 1971 (Public Law 92–158).

I know that the leaders of the Appropriations Committee on both sides of the aisle, and particularly the distinguished Senator from Louisiana (Mr. ELLENDER), chairman of the full Appropriations Committee, and the Senator from Washington (Mr. MAGNUSON), chairman of the Labor-HEW Appropriations Subcommittee, did all they could to convince the House conferees 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 meager 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 medicine, osteopathy and dentistry schools, as included in the original bill, to the conference report level of 65 percent; the reduction of nursing school capitation from 83 percent in the Senate-passed bill to just 40 percent in the conference report—a cut of more than 50 percent; the slash in construction grant funding from $190 million to $142 million for health professions schools and from $25 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 I 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 number of medical schools and other 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 (Mr. TUNNEY) to add $20 million 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 inserted in the RECORD, my State of California has three vitally necessary health professions construction grant applications already approved and ready to go to contract, totaling $14.2 million; and, in addition, 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 conferees labored in this conference, and I know that they did all that was humanly 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 in view of 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 27 of the appropriations committee 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 grants shall not be less 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 total funding to schools and colleges of optometry is of particular concern to me.

I ask unanimous consent to have printed in the RECORD at this point several letters I have 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,
Berkeley, Calif., December 2, 1971.

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 on the Senate Appropriations Subcommittee on Labor/HEW requesting them to give full funding to the VOPP professions capitation 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 nations health manpower needs in optometry. In 1965–66 when we first received Federal aid we had a total enrollment of 116 professional degree students and a faculty equivalent to 14.7 full-time teachers. This fall, largely because of Federal aid, we have expanded our enrollment to 211 students and a faculty equivalent to 27.6 full-time teachers. While the program has expanded the quality of the educational program has also advanced, thanks to Federal funding. ($113,000 Institutional Grant and $295,000 Special Project Grants in 1971–72.)

Our present enrollment is within one or two students of absolute capacity. Since our building grant application cannot be funded this coming year because of lack of California matching money, we will have to request an exemption from a further increase in enrollment. Thus we cannot look forward to bonus capitation grants for some time.

We have made a commitment to presently enrolled students. If there is a cutback in our Federal funding we will be forced to cut back enrollment in 1973. In the meantime 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 funded to at least 75% we 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, 1917.

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 in California, I am greatly concerned about the Administration's statement of distribution of funds under the Health Professions Education 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 this nation. Each of these schools has 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 assuring that vision care and optometry and its educational programs, specifically, receive more equitable treatment in the disbursement 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 recommendations 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 allocated around 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. MAGNUSON. 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 were hopeful we would 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 matter. It was not 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 thoroughly agree that if there is a crisis 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 failure of the delivery of 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 New Hampshire 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 do the best we can 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. CRANSTON. I thank the Senator. I look forward to working with him and his very effective leadership in the direction that the Senator and I know we must move.

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

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Are all the items in the supplemental appropriation bill now before the Senate fully authorized?

Mr. ELLENDER. 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 of 1964 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. 2007 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. MANSFIELD. What item is that?

Mr. ELLENDER. We have four items: Under the Labor Department, the Manpower Administration, $26,207,000 for salaries and expenses; 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, $741,380,000.

Mr. MANSFIELD. None authorized?

Mr. ELLENDER. None authorized.

Mr. MANSFIELD. In other words, over a billion dollars in the bill is not authorized?

Mr. ELLENDER. About $1.8 billion.

Mr. MANSFIELD. Could the distinguished chairman of the committee give an explanation to the Senate as to how the Appropriations Committee can operate in this manner, appropriating funds for agencies for which authorizations have not been received?

Mr. ELLENDER. When the conferees struck out the contingency language, that action has the effect of appropriating funds for these items under the authorization that was last in force. It will tie to legislation that had been continued to be funded by the continuing resolution and will not be based upon the new proposed 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 reference to child care, which was the reason for the veto.

Mr. MANSFIELD. 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 action renders meaningless the function and alleged authority of 16 out of 17 of the Senate's standing committees.

Mr. ELLENDER. The Senator knows how I feel about that.

Mr. MANSFIELD. I hope this 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 the distinguished chairman will cooperate in that endeavor.

Mr. MAGNUSON. We did not expect the veto, but, of course, we are appropriating for these programs spelled out in the bill under the Economic Opportunity Act of 1964, as amended, the old legislation. These are programs now being carried on, and that is under the old law.

The 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 supplemental appropriation, that I register my strong dissatisfaction with that section of the bill dealing with health manpower generally, and specifically with that section dealing with the funding of the "physician shortage scholarship program."

One of the most serious health problems we have in the United States today is in the health care delivery system, and in that system we have a serious maldistribution of doctors. A big challenge 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 census tracts with 174,000 citizens totally lacking a primary care physician. A 1970 American Medical Association study found 134 counties in the Nation without a single physician.

Earlier in the year, I introduced a bill, S. 790, called the physician shortage area scholarship program, in response to this problem. This bill provides scholarships to young men or women who agreed to practice 1 year for each year of the scholarship in these physician shortage areas. The measure was cosponsored by 25 additional Members of this body.

I was extremely pleased when the legislation was adopted as an amendment to the Health Manpower Act by the Health Subcommittee of the Committee on Labor and Public Welfare, and when the measure was later passed by the Senate. Subsequently, the House-Senate conferees agreed the program was needed, and it was included in the final bill. I was delighted when the Senate appropriations included $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 physician-shortage areas in the coming year. I am naturally disappointed that our House colleagues did not agree to that appropriation. I believe such action was a serious mistake. I also 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 now and provide, in the budget about to be sent up for the next fiscal year, substantial 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 the scholarships do not serve in the shortage areas as agreed, the scholarship reverts to a loan, so that it would not cost us any additional money. In other words, if the program works, communities in dire need of doctors will be aided; if it does not work, the Government will not lose a cent. It is difficult for me to understand why this program was not fully funded, let alone the failure to fund the program at all.

So, although I am disappointed that the appropriation was not approved by the House conferees this year, I hope that when the next appropriation comes up, we will have a significant appropriation 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 conferees insisted on our giving it up to make up some of the differences where they yielded in other places.

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 their feet in concrete about scholarships. They want to shift the matter, 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 lower income brackets, and 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 note. 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 income groups. But the Senator from North Dakota will agree with me that we have an awful time when we mention scholarships to the House conferees. Their theory seems to be that scholarships should phase out and we should turn to loans.

Mr. BEALL. Mr. President, I appreciate the remarks of the distinguished Senator from Washington.

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

Mr. BEALL. I yield.

Mr. YOUNG. No one could better understand nor be more sympathetic with the position of my friend from Maryland

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 problems that we have mentioned.

Mr. BEALL. I appreciate the remarks of the Senator from North Dakota, and the support given by my colleagues in the Senate to this proposal. I hope we can make our counterparts 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 commitment, the scholarship is in effect converted to a loan, which must be repaid. I would hope the House and the administration would carefully study this unique approach, which I believe has the greatest potential of helping to solve the physician maldistribution problem.

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

Mr. YOUNG. I yield.

Mr. COOK. I might say to the Senator from North Dakota, and also the Senator from Maryland and the Senator from Washington, 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 hospitals throughout our States, seeking to keep doctors there who have come from other countries, and whose retention 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, when they get these young doctors in from 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 to keep them here 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-consent request?

The PRESIDING OFFICER. The Senator 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 language contained in Public Law 92–157, and excerpts from the report of the Committee on Labor and Public Welfare discussing my program. Again, I repeat the deletion of funds was a tragic mistake and I hope to work with both the Appropriations Committee and the administration in correcting this error early next year.

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

EXCERPTS FROM SENATOR BEALL'S REMARKS OF JULY 14 ON HEALTH PROFESSIONS EDUCATION ASSISTANCE AMENDMENTS DEALING WITH HIS PHYSICIAN SHORTAGE SCHOLARSHIP PROGRAM

S. 790 was introduced by me on February 17 of this year and was cosponsored by Senator DOMINICK and approximately one-quarter of the Senate membership. As incorporated into S. 934, the physician shortage area scholarship program is substantially the same as the original bill with the major exception being the deletion of the fellowship program. I ask unanimous consent that at the conclusion of my remarks the text of the physician shortage area scholarship program be printed in full in the RECORD.

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 fifth year. This area may be in rural Appalachia, in an urban poverty area, or among migrant farmworkers. For each year of the scholarship, 1 year of service in a shortage area is required. A student, participating in the scholarship program, who subsequently does all of his postgraduate work in a medical scarcity area, is relieved of 1 year of his service obligation.

If a scholarship recipient fails to honor his commitment, the scholarship is in effect converted to a loan and the individual is required to repay to the Government the value of the scholarship plus interest at the commercial market rate. If the program works, we will have taken important action in helping to solve the maldistribution problem; if it does not, the Government will not lose a cent.

The physician maldistribution problem is one of the most serious problems confronting the country and it is one of 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 is imperative that this program be retained in the final bill. As I mentioned earlier, we need 50,000 doctors in the United States today. This gross national statistic does not adequately convey the gravity of the situation in many rural and urban areas of this country. A 1970 AMA study of the distribution of physicians indicated that there were 134 countries 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 communities than counties in the country without a a single physician or without an adequate number of doctors. Although there is not a great deal of information available on individual communities lacking doctors, research that is available indicates that a great need exists. For example, a 1960 survey of over 1,600 towns and cities in Minnesota, North Dakota, South Dakota and Montana identified 1,000 towns as not having a single physician, and an additional 224 towns with only one physician.

One physician counties or communities are likely to become no-physician towns or counties unless action is taken. This is true because the age of physicians in these rural communities tends to be higher. For example, in rural Appalachia 65 percent of the physicians are over 50 years of age. In West Virginia over the last 10 years approximately 60 communities of a population of 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 rural America, it is also needed by the inner-city area. A 1970 study of the metropolitan area of Baltimore identified 16 census tracks in the inner city which were totally lacking in primary care physicians. These census areas served approximately 174,000 people, most of whom were economically disadvantaged. I believe that the bill, which is incorporated into S. 934, will effectively respond to the maldistribution problem in both the rural and urban shortage areas. The program establishes a unique priority system for selecting students for the scholarship program.

PRIORITIES 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 given to individuals who reside in a physician-shortage area who agree to return and practice in such area.

The third priority is allocated to individuals from lower income families who, although residing in an area where there is not a physician shortage agree to practice in any physician-shortage area.

The final priority would go to individuals, not lower income, who do not come from an area of physician shortages, but who agree to practice in any physician-shortage area.

Mr. President, there are two primary purposes for the system of priorities for selecting eligible students for scholarships under the bill.

First, the evidence supports, what commonsense tell us, the hypothesis that persons from physican-shortage areas are more likely to return to and remain in such areas and practice medicine.

The results of an American Medical Association's survey published in 1970, questioning physicians on the factors that influence their decision to practice in a certain 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 equal percentage of doctors raised in nonmetropolitan communities of 25,000 or more were practicing in cities of that size. The AMA survey confirmed previous studies which had indicated that:

"Physicians who practice in small towns are more likely to have a rural than urban background."

The AMA 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 origins or his place of practice:

"Physicians who practice in small towns are more likely to have rural rather than urban backgrounds . . . rural physicians have predominantly rural backgrounds and metropolitan physicians generally had urban locations during their youth."

If we can persuade young men and women to practice in physician-shortage areas, the evidence indicates that most are likely to remain. The AMA study on this point states that:

"Once a physician establishes 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. 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 the same place."

This measure is then drafted to give priorities to lower income and other individuals from physician-shortage areas because it is felt that these individuals are more 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 for more minority and lower income individuals to go to medical school. Across the country there has been a concern over the poor representation of the minority groups in our medical schools. Only recently 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 practice primary care, including family medicine. In 1931, three out of four of the Nation's doctors were engaged in family practice. In 1967 only one out of five were in general practice. In Baltimore City, only 9 percent of the practicing physicians are in family practice. Indications are that this trend toward specialization and away from general practice is continuing. The Millis report found only 15 percent of the medical students graduates planning to enter general practice.

Steps taken in recent years show some promise of reversing this trend away from 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 the practice of family medicine and should encourage medical schools to focus anew on the family physician.

Mr. President, much 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 priority scheme will not only give them an opportunity to serve but it will provide them the chance to serve and minister to the health needs of citizens, often their friends and neighbors, in the physician shortage area wherein they grew up.

I know the Appalachia area of my State well. It is my home area. I know the young men and women who live there and, I believe, they, as well as 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 deal with the Nation's maldistribution problem. By granting priorities to individuals from the shortage areas to accept the scholarship conditioned on their making a commitment to serve in such areas, I am convinced that the probability of its success is good.

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 care, Medicaid, and all the other 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 PROVISIONS OF PUBLIC LAW 92–157

TITLE I—AMENDMENTS TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

"SUBPART III—PHYSICIAN SHORTAGE AREA SCHOLARSHIP PROGRAM

"SCHOLARSHIP GRANTS

"SEC. 784. (a) In order to promote the more adequate provision of medical care for persons who—

"(1) reside in a physician shortage area;

"(2) are migratory agricultural workers or members of the families of such workers;

the Secretary may, in accordance with the provisions of this subpart, 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 facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons referred to in clause (2). For purposes of this subpart, (1) the term 'physician shortage area' means an area determined by the Secretary under section 741(f)(1)(C) to have a shortage of and a need for physicians, and (2) the term 'primary care' has the meaning prescribed for it by the Secretary under section 768(c)(3)(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 $5,000.

"(3) The Secretary shall, in awarding scholarship grants under this subpart, accord priority to applicants as follows—

"(A) first, to any applicant who (i) is from a low-income background (as determined under regulations of the Secretary), (ii) resides in a physician shortage area, and (iii) agrees that, upon completion of his professional training, he will return to such area and will engage in such area in the practice of primary care;

"(B) second, to any applicant who meets all the criteria set forth in subparagraph (A) except that prescribed in clause (i);

"(C) third, to any applicant who meets the criterion set forth in clause (i); and

"(D) fourth, to any other applicant.

"(c)(1) Any scholarship grant awarded to any individual under this subpart shall be awarded upon the condition that such individual will, upon completion of his professional training, engage in the practice of primary care—

"(A) in the case of any individual who, in applying for a scholarship grant under this subpart, met the criteria set forth in subparagraph (A) or (B) of subsection (b)(3), in the physician shortage area in which he agreed (pursuant to such subparagraph) to engage in such practice; and

"(B) in the case of any individual who did not agree (pursuant to such subparagraph (A) or (B)) to engage in such practice in any particular physician shortage area (or who is not, under a waiver under paragraph (4) of this subsection, required to engage in such practice in any particular physician shortage area)—

"(i) in any physician shortage area, or

"(ii) at such place or places, in such facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care provided by such individual, a substantial portion will consist of persons who are migratory agricultural workers or are members of the families of such workers;

for a twelve-month period for each full academic year with respect to which he receives such a scholarship grant. For purposes of the preceding sentence, any individual, who has received a scholarship grant under this subpart for four full academic years, shall be deemed to have received such a grant for only three full academic years if such individual serves all of his internship or residency in a public or private hospital, which is located in a physician shortage area, or a substantial portion of the patients of which consists of persons who are migratory agricultural workers (or are members of the families of such workers) and, if, while so serving, such individual receives training or professional experience designed to prepare him to engage in the practice of primary care.

"(2) The conditions imposed by paragraph (1) shall be complied with by an individual to whom it applies within such reasonable period of time, after the completion of such individual's professional training, as the Secretary shall by regulations prescribe.

"(3) If any individual to whom the conditions referred to in paragraph (1) is applicable fails, within the period prescribe pursuant to regulations under paragraph (2), to comply with such conditions for the full number of months with respect to which such condition is applicable, the United States shall be entitled to recover from such individual an amount equal to the amount produced by multiplying—

"(A) the aggregate of (i) the amounts of the scholarship grant or grants (as the case may be) made to such individual under this subpart, or (ii) the sums of the interest which would be payable on each such scholarship grant if, at the time such grant was made, such grant were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such grant was made, and if the interest on each such grant had been compounded annually, by

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EXCERPTS FROM SENATE REPORT 92–251 DISCUSSING FAMILY PHYSICIANS SHORTAGE SCHOLARSHIP PROGRAM

PHYSICIAN SHORTAGE AREA SCHOLARSHIP PROGRAM

The bill includes a new demonstration scholarship program designed to offer stronger incentives to physicians to practice in shortage areas, to encourage more doctors to enter general practice, to assist in remedying the problem of maldistribution of physicians, and to increase the number of lower income and 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 to mean a medically underserved area as designated for purposes of the health professions student loan cancellation provisions.

Scholarships could be as much as $5,000 annually. One year of service would be required for each year of scholarship aid. (A medical student who receives scholarship aid for four academic years would be deemed to have completed one year of the requirement for service if he served all of his internship or residency in a hospital in a physician shortage area or a hospital serving substantial numbers of migrant workers and their families and if, while so serving, he receives training or experience designed to prepare 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 propor-

tionate amounts, with interests, as though the student aid had been a loan, payable within five years.

The bill establishes priorities for selection of students for the scholarship program. First priority is given to individuals from low-income families who live in physician shortage areas and who agree to return and practice in such areas. Second priority is given to individuals who reside in a physician shortage area and who agree to return to practice there. Third priority is given to individuals from low-income families who, although not residing in areas 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 $3 million plus that was available to us in the 1971 year, and that they will be available to us under the supplemental appropriation.

Mr. MAGNUSON. That is the amendment dealing with title I funds of the Elementary and Secondary Education Act in the amount of $32.5 million. The conferees accepted our amendment on that, so that no State 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. COOK. It does.

Mr. MAGNUSON. We put a list of the States into the RECORD. The House conferees 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 contains many excellent provisions. I am most disturbed, however, that the conference deleted most of the additional funds for veterans which the Senate Appropriations Committee had recommended and this body has passed. This 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 $6 million, is further evidence that the administration prizes form above content. Eloquent statements and plans for the veteran are heard, but seldom is there money to implement them. I am further concerned that information which administration operatives supplied to some of the conferees was, I believe, deliberately 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. This, of course, 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 November 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 conferees ever met and is a full 1.2 percent greater than for nonveterans of the same age group. Indeed, throughout 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 by Government contractors. 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 increase the estimated number of job 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. It was obvious, also, that if 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 service offices was 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 request of $30 million to the Office of Management and Budget to aid the veteran. But the Office of Management and Budget 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 inserted in the RECORD at the conclusion of my remarks. The response of the subcommittee was most gratifying, particularly from its distinguished chairman (Mr. MAGNUSON) and the ranking Republican (Mr. COTTON). Equally receptive was the distinguished chairman of the full committee (Mr. ELLENDER) and the ranking Republican (Mr. YOUNG). The full committee recommended to this body that it appropriate $25 million of the $30 million I recommended.

The $25 million that the Senate passed to aid veteran unemployment has now, thanks to pressure from the administration, been cut back to $6 million. Early in this administration, we were told that it should be judged, not by what it said, but by what it did. After witnessing the misinformation and pressure exerted to delete these funds, I believe that I have the basis to judge them. But, more important, the veteran who is unemployed and looking for a job, will have a chance to make his judgment as well.

I ask unanimous consent to have printed in the RECORD the testimony I gave before the subcommittee and a copy of my letter to Chairman MAGNUSON.

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

TESTIMONY BEFORE THE SUBCOMMITTEE ON LABOR, AND HEALTH, AND WELFARE, AND RELATED AGENCIES

I want to thank the Committee for the opportunity of being able to bring additional information concerning veterans unemployment to your attention. I understand the pressure of time which bears upon this Committee, and I shall not monopolize it by repeating information contained in my letter of October 28 to Subcommittee Chairman Magnuson. Nor will I spend any large amount of time going over a detailed budgetary breakdown of how the additional $30 million supplemental appropriation would be allocated. This information has been previously supplied to your committee staff and copies of the material are attached to my testimony as exhibits.

I believe a few brief points are in order, however, for your consideration. First, while the unemployment rate seems to be improving somewhat for veterans, the situation still calls for corrective action. In spite of a drop in the veteran unemployment rate in October to 7 percent, this continues to be higher than for comparable nonveterans. For most of this year the veterans has experienced an unemployment rate of 8.5 percent. For those recently discharged from the service who are in the age group 20 to 24, the most current figures indicate the unemployment rate is 11.2 percent. Before too much reliance is placed upon the October unemployment figures, it should be recognized that monthly veteran employment figures are *not* seasonally adjusted. October, as most of you know, is traditionally one of the higher employment months. The Bureau of Labor Statistics has cautioned against viewing the October figures as establishing any sort of trend. Furthermore, it would seem to me if the employment service was only able to place less than 13 percent of its veteran applicants last year that there is enormous room for improvement. While ESARS data may indicate there has been some additional placement of Vietnam-era veterans, it also indicates that the placement percentages are running behind last year's total. For the first quarter of Fiscal Year '72—July through October—there were approximately 1.1 million veteran applicants. Of that number, less than 84,000 were placed in a regular job, which is defined as one of three or more days duration. This would indicate a placement percentage of 7.3 percent. First quarter ESARS data also indicates that although veterans made up 21.2 percent of employment service applicants, they comprise only 18.4 percent of those counseled, 13 percent of those tested, and 12.3 percent of those enrolled in training.

The President himself has noted the importance of the employment service to assure that veterans secure jobs upon return to the United States through his six point plan. Of those 6 points, 3 bear directly upon the U.S. Training and Employment Service and 2 others indirectly draw upon their resources. Of these 6 points, perhaps the most important is the mandatory listing of jobs by all government contractors required by Executive Order 11958.

The Department of Labor has estimated that as a result of this Executive order, there will be generated an additional 5 million job openings above the original projection of 6.5 million for a total of 11.5 million job listings with the employment service. Clearly, this almost doubling of job listings will require additional staff. The Department of Labor itself has recognized that if the job is to be done, additional funding will be necessary. I wish to emphasize that this $30 million request is in line with the same request that the Department of Labor itself submitted to the Office of Management and

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. Since that time, the Department of Labor's official position has been that it could get along with the $4.5 million. But I think you are aware, Mr. Chairman, that these statements are not dictated by the convictions of the officials of the Department of Labor but are statements from a script written by the Office of Mangement and Budget. As I have said before, I do not believe we can economize at the expense of our veterans.

Even if the Department of Labor through large efforts is able to supply the necessary services to veterans, it is my conviction 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 believes, that adequate services to veterans should be purchased at the expense of programs for the disadvantaged and minorities, yet clearly, this is what 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 local employment service programs, for veterans. I believe last year's statistics and the continuing statistics of this year justify a larger degree of control and oversight by those who are assigned exclusively to monitoring veterans' functions. While I do not doubt the sincerity of the Department of Labor, there has been a tendency in the past not to closely monitor state employees assigned to veterans' functions. The Veterans' Employment Service will see that the federal money is well spent if they are given adequate personnel.

U.S. SENATE, COMMITTEE ON
VETERANS' AFFAIRS,
Washington, D.C., October 28, 1971.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, and Health, and Welfare, and Related Agencies Committee on Appropriations, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Recently the President submitted a request for supplemental appropriations for FY '72 (House Document No. 92-164). Your committee, which has been holding hearings on this matter, received testimony on October 20 from Malcolm R. Lovell, Jr., Assistant Secretary for Manpower, concerning the Administration's request for $4,500,000 to aid in placement service for veterans in response to Executive Order 11598.

I have examined the request submitted as well as the accompanying testimony of Mr. Lovell, and it is my conviction that there has been substantially less than a full and candid disclosure to your committee of the employment problems facing the returning veteran and the action that must be taken. The Committee on Veterans' Affairs, which I am privileged to chair, has been conducting a thorough inquiry into the employment problems confronting the returning veteran and what services the government is and is not providing him. The committee has held hearings on this subject on April 26, 28; May 10; September 28, 29; and October 8.

The composite picture that emerges is one of neglect by the United States Training and Employment Service. The Veterans Employment Service within the Department of Labor, which has veteran employment as its prime responsibility, is chronically understaffed and has been unable to effectively monitor the state employment services.

One immediate indication of the problem is, of course, the continuing higher 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 6.2 percent to a current 8.3 percent. By comparison, nonveterans of the same age group are currently experiencing an unemployment rate of only 6.6 percent. It is interesting to note that since June 11, when the President called for an "effective mobilization of federal resources" to aid the veteran, the gap between veteran and nonveteran unemployment rates has widened from .3 percent to 1.7 percent. When one examines the unemployment rate for 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 20 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 give priority to veterans and the legal requirement that each of the some 2400 local employment offices have a veterans' employment representative, the record indicates that far from getting priority, the returning veteran is getting less service than the nonveteran. During the past year, veterans constituted 21.5 percent of all state employment service applicants. Yet ESARS data shows that they comprised only 17.9 percent of those counseled; 13.2 percent of those tested; and 14.7 percent of those enrolled in manpower training programs. Proportionally fewer veterans were referred to health, rehabilitative, welfare, or remedial services. Only 11.3 percent of those enrolled in orientation were veterans. 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 defines a regular job as one which is of three days duration. How many of these placements were for temporary employment of short duration or "dead-end" type jobs is not revealed by the figures, and the Department of Labor has informed me they are unable to supply any information in this regard. Regulations defining eligibility for manpower programs unfairly and I believe unintentionally have tended to exclude the young veteran. That is to say, veterans who would otherwise be classified as "disadvantaged" and eligible 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 to those veterans who were placed in the category of "disadvantaged," proportionately fewer of them were enrolled in manpower training programs than their disadvantaged nonveteran counterparts.

The foregoing suggests quite graphically, I believe, the failure of the state agencies to perform as required by law and the necessity of close effective supervision and assistance by the Federal Veterans Employment Service. Unfortunately, this division has too often been treated as a poor stepchild of the Department of Labor. Its line-item authority for FY '72 is under $2.5 million. It has a total staff of only 144 employees which includes 77 professionals in the field and 9 professionals in the central office. Of this number, only one is a Vietnam-era veteran. By comparison, over 700 men were assigned to this division following World War II. Operating under a heavy work load, the Veterans Employment Service was able to conduct evaluations of only 732 of the 2400 local employment service offices last year. Clearly I believe that adequate staffing is necessary if we are to insure that the veteran receives a fair shake.

As you know, the Department of Labor submitted a request for $30 million to the Office of Management and Budget in order to implement Executive Order 11598 designed to reduce the higher unemployment rate for Vietnam veterans. OMB gave approval for a submission of only $4.5 million. While I am cognizant of necessary constraints imposed by budgetary requirements, I do not believe that we can economize at the expense of the young veteran.

Because I know that you share the same degree of concern about the employment problems facing the veteran today, I am respectfully requesting that your subcommittee allow me to present this and additional testimony to members of the committee together with recommendations for budgetary increases prior to any final action on the supplemental request.

Thanking you in advance for your courtesy, I remain

Sincerely,

VANCE HARTKE,
Chairman.

Mr. CASE. Mr. President, as a member of the conference committee, I have taken exception to one portion of the conference report on the supplemental appropriations bill that perpetuates an inequity in the distribution of Federal aid to school districts that carry a special burden as a result of Federal activities.

Twice this year the Senate has approved funds to assist local districts educating children whose parents live in low-income public housing. On both occasions, in the education appropriations bill and again in this supplemental appropriations bill, the funds approved by the Senate for this purpose were eliminated in the conference committee meeting with House Members.

Since 1950, the Congress has provided funds to assist school districts that provide an education for children whose parents live or work on Federal installations throughout the country. This assistance recognizes that a Federal activity can impose a special burden on a school district, particularly when Federal property is removed from the local tax rolls.

In my view, there can be no justification for providing Federal aid to school districts impacted by Federal installations if we do not provide the same type of assistance to school districts required to educate children whose parents live in housing projects that are exempt from local taxes because they are Federal property.

The failure to provide funds for the authorized program of aid to districts impacted by public housing is not only inequitable, it is shortsighted on the part of those who support aid to districts impacted by other Federal installations.

We in Congress have already stated our support for spreading low-income public housing beyond the urban areas where most of it now exists. Indeed reports from the 1970 census indicate that suburban public housing will continue to expand during this decade. Over 3,000 communities in all 50 States now have public housing and this is a program that will touch more and more as the years go by.

In my view, Federal aid for school dis-

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 identifiable public economic need.

ELDERLY—SUPPLEMENTAL APPROPRIATIONS

Mr. KENNEDY. Mr. President, I want to commend the conferees for keeping in the supplemental appropriations bill the full level of funding for older Americans programs provided by my amendment last Friday.

The amendment increased the title III community programs for the aging and the foster grandparents and retired senior volunteer program by $45.75 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 year 1970, $85 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.

Thus, the 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 increased that level and again last week the 80 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 acknowledged to the White House Conference on Aging that such a funding level was required.

Rather than wait until the next fiscal year, I felt that the additional moneys 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.

Mr. HANSEN. Mr. President, the conference on H.R. 11955 includes $2,215,000 for an extension and widening of the runway at Jackson Hole Airport, Grand Teton National Park, Wyo.

In addition, the funds 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 air access 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, airlines are using more sophisticated aircraft and safety standards 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 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 prompts action.

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 the House in this action 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. ELLENDER. 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 the yeas and nays have been ordered, and the clerk will call the roll.

The second 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. HARRIS), 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. MUNDT) 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 "yea."

The result was announced—yeas 84, nays 9, as follows:

[No. 449 Leg.]

YEAS—84

Aiken	Fong	Montoya
Allott	Fulbright	Moss
Baker	Gambrell	Muskie
Bayh	Gravel	Nelson
Beall	Griffin	Packwood
Bellmon	Gurney	Pastore
Bentsen	Hansen	Pearson
Bible	Hart	Pell
Boggs	Hartke	Proxmire
Brock	Hatfield	Randolph
Brooke	Hollings	Ribicoff
Burdick	Hruska	Saxbe
Byrd, W. Va.	Hughes	Schweiker
Cannon	Humphrey	Scott
Case	Inouye	Sparkman
Chiles	Jackson	Spong
Church	Javits	Stafford
Cook	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Stevens
Cotton	Kennedy	Stevenson
Cranston	Long	Symington
Curtis	Magnuson	Taft
Dole	Mathias	Talmadge
Dominick	McClellan	Tower
Eagleton	McGovern	Tunney
Eastland	McIntyre	Weicker
Ellender	Miller	Williams
Ervin	Mondale	Young

NAYS—9

Allen	Fannin	Metcalf
Buckley	Goldwater	Roth
Byrd, Va.	Mansfield	Thurmond

NOT VOTING—7

Anderson	McGee	Smith
Bennett	Mundt	
Harris	Percy	

So the conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert:

"Salaries and Expenses

"For an additional amount for the Manpower Administration, $26,207,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with 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 numbered 28, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

"National Institutes of Health

"Health Manpower

"For an additional amount for 'Health Manpower', $492,980,000 of which $162,885,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Service Act: *Provided*, That $93,000,000 to carry out sections 772, 773, and 774 shall remain available for obligation through September 30, 1972: *Provided further*, That $100,000 shall be used to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress).

"Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, 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 hereunder shall be charged to the appropriation for that 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 306, 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 recede 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 matter proposed by said amendment, insert:

"Social and Rehabilitation Service
"Special Programs for the Aging

"For an additional amount to carry out, except as otherwise provided, the Older Americans Act of 1965, $45,750,000, to remain available for obligation through December 31, 1972.

"Research and Training

"For an additional amount to carry out, except as otherwise provided, titles IV and V of the Older Americans Act of 1965, $9,500,000, to remain available for obligation through December 31, 1972."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$376,317,000," and delete the proviso.

Resolved, That the House recede 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: $741,380,000", and delete the last proviso.

Resolved, That the House recede 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: "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of $36,000,000 named in said amendment, insert the following: $32,000,000", and in lieu of $36,225,000 named in said amendment insert the following: "$32,225,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted, insert the following: "$2,200,000, of which $200,000 shall be derived from the appropriation 'Office of the Secretary, salaries and expenses' ".

Resolved, That the House recede 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 matter proposed by said amendment, insert the following:

"FUNDS APPROPRIATED TO THE PRESIDENT

"Economic Stabilization Activities

"Salaries and Expenses

"For expenses necessary to carry out the Economic Stabilization Act of 1970, as amended, including activities under Executive Orders No. 11615 of August 15, 1971, and No. 11627 of October 15, 1971, both as amended; activities under Proclamation 4074 of August 15, 1971; and hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for GS–18, such amounts as may be determined from time to time by the Director of the Office of Management and Budget but not to exceed $20,153,000, to be derived by transfer from balances reserved for savings in such appropriations to the departments and agencies of the Executive Branch for the current fiscal year as the Director may determine: Provided, That advances or repayments from the above amounts may be made to any department or agency for expenses of carrying out such activities."

Resolved, That the House recede 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. ELLENDER. 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. ELLENDER. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under 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. ELLENDER. Mr. President, I have a tabulation which reflects the budget 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

SUMMARY

Chapter No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
I	HUD-Space-Science-Veterans	$1,587,000		$1,587,000	$1,587,000
II	Interior and Related Agencies:				
	New budget (obligational) authority	26,076,000	$8,170,000	29,485,000	21,302,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,096,000)	(10,096,000)
	Transfers	(4,172,000)	(3,746,100)	(3,746,100)	(3,746,100)
III	Labor and Health, Education, and Welfare:				
	New budget (obligational) authority	2,684,655,000	334,439,000	3,401,567,000	2,838,790,000
	Transfers	(2,560,000)	(1,900,000)	(2,560,000)	(2,560,000)
IV	Legislative:				
	New budget (obligational) authority	27,719,515	23,549,920	26,443,515	24,922,515
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)
V	Public Works—AEC:				
	New budget (obligational) authority	119,010,000	46,500,000	119,010,000	119,010,000
VI	State, Justice, Commerce, and Judiciary:				
	New budget (obligational) authority	6,471,000	72,094,000	115,273,000	110,354,000
VII	Transportation:				
	New budget (obligational) authority	60,244,000	55,544,000	60,994,000	58,294,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Transfer		(200,000)		(200,000)
VIII	Treasury, Postal Service, and General Government:				
	New budget (obligational) authority	227,592,000	226,956,000	222,006,000	210,556,000
	Transfers	[1] Unlimited transfer language.		(20,153,000)	(20,153,000)

Footnotes at end of table.

Chapter No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
IX	Claims and judgments	$21,569,856	$19,029,734	$21,569,856	$21,569,9856
	Grand total:				
	New budget (obligational) authority	3,254,924,371	786,282,654	3,998,045,371	3,406,385,371
	Appropriation to liquidate contract authority	(20,000,000)	(20,000,000)	(20,096,000)	(20,096,000)
	Transfers	(6,732,000)	(5,846,100)	(26,459,100)	(26,659,100)
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)

THE SUPPLEMENTAL, 1972 (H.R. 11955)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Doc. No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
	CHAPTER I				
	HUD-Space-Science, Veterans' Administration and other Independent Agencies				
	Securities and Exchange Commission				
91-43	Salaries and expenses	$1,587,000		$1,587,000	$1,587,000
	CHAPTER II				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Land Management				
91-119	Management of lands and resources	160,000	$160,000	85,000	85,000
	Bureau of Indian Affairs				
	Resources management			230,000	230,000
	Construction			550,000	550,000
	Total, Bureau of Indian Affairs			780,000	780,000
	Geological Survey				
92-119	Surveys, investigations, and research	3,700,000		1,190,000	650,000
	Bureau of Mines				
	Conservation and development of mineral resources			300,000	300,000
92-164	Health and safety	5,250,000	5,250,000	7,225,000	6,250,000
	Total, Bureau of Mines	5,250,000	5,250,000	7,525,000	6,550,000
	Office of Coal Research				
92-119	Salaries and expenses	10,280,000		10,280,000	5,120,000
	Bureau of Sport Fisheries and Wildlife				
	Construction		100,000	100,000	100,000
	National Park Service				
	Construction		110,000	2,325,000	2,325,000
	(By transfer)	[1] (−250,000)		(96,000)	(96,000)
	Parkway and road construction (appropriation to liquidate contract authority)				
	Total, National Park Service		110,000	2,325,000	2,325,000
	Office of the Secretary				
92-119	Salaries and expenses	1,286,000	500,000	518,000	500,000
	(By transfer)	[2] [4] (−3,922,000)	(−3,746,100)	(−3,746,100)	(−3,746,100)
92-119	Departmental Operations (by transfer)	[3] [4] (3,922,000)	(3,746,100)	(3,746,100)	(3,746,100)
	Total, Office of the Secretary	1,286,000	500,000	518,000	500,000
	Total, Department of the Interior	20,676,000	6,120,000	22,803,000	16,110,000
	Appropriation to liquidate contract authority			(96,000)	(96,000)
	By transfer	(−250,000)			
	RELATED AGENCIES				
	DEPARTMENT OF AGRICULTURE				
	Forest Service				
92-164	Forest roads and trails (appropriation to liquidate contract authority)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
92-43	Youth Conservation Corps	3,500,000		3,500,000	3,500,000
	Total, Forest Service	3,500,000		3,500,000	3,500,000
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	Health Services and Mental Health Administration				
	Indian health facilities			42,000	42,000
	National Parks Centennial Commission				
	Salaries and expenses		250,000	250,000	250,000
92-164	(By transfer)	[5] (250,000)			
	American Revolution Bicentennial Commission				
92-119	Salaries and expenses	1,900,000	1,800,000	1,400,000	1,400,000
	Total, related agencies	5,400,000	2,050,000	6,692,000	5,192,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	By transfer	(250,000)			
	Total, chapter II, new budget (obligational) authority	26,076,000	8,170,000	29,495,000	21,302,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,096,000)	(10,096,000)

Footnotes at end of table.

THE SUPPLEMENTAL, 1972 (H.R. 11955)—Continued

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

SUMMARY—Continued

Doc. No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
	Smithsonian Institution				
----------	The John F. Kennedy Center for the Performing Arts			$1,500,000	----------
	CHAPTER III				
	DEPARTMENT OF LABOR				
	Manpower Administration				
92-15, 93	Salaries and expenses	$26,207,000	----------	26,607,000	$26,207,000
92-15	Manpower training services	17,597,000	----------	17,597,000	776,717,000
92-164	Limitation on grants to States for unemployment insurance and employment services (trust fund)	(4,500,000)	($4,500,000)	(24,640,000)	(6,000,000)
	Bureau of Labor Statistics				
92-164	Salaries and expenses	1,800,000	1,800,000	1,800,000	1,800,000
	Office of the Secretary				
92-164	Salaries and expenses	500,000	----------	400,000	----------
	Total, Department of Labor, Federal funds (new budget (obligational) authority)	46,104,000	1,800,000	846,404,000	804,724,000
	Total, trust funds	(4,500,000)	(4,500,000)	(24,640,000)	(6,000,000)
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	Departmental Management				
92-164	Nursing home improvement:				
	Federal funds	7,672,000	7,672,000	7,672,000	7,672,000
	Trust fund transfer	(1,900,000)	(1,900,000)	(1,900,000)	(1,900,000)
	Office of Education				
----------	Elementary and secondary education			32,500,000	32,500,000
----------	School assistance in federally affected areas			265,000,000	----------
----------	Environmental education			2,500,000	----------
----------	Higher education			3,000,000	3,000,000
92-164	Civil rights education	19,672,000	19,672,000	19,672,000	19,672,000
	Social Security Administration				
92-164	Special benefits to disabled coal miners	289,696,000	289,696,000	289,696,000	289,696,000
	Total, Department of Health, Education, and Welfare	1,057,261,000	331,749,000	1,773,973,000	1,291,796,000
	By transfer	(1,900,000)	(1,900,000)	(1,900,000)	(1,900,000)
	Health Services and Mental Health Administration				
----------	Medical facilities construction		1,500,000	1,500,000	1,500,000
	National Institutes o Health				
92-44	Health manpower	350,195,000	----------	707,157,000	492,980,000
	Social and Rehabilitation Service				
----------	Special programs for the aging			45,750,000	45,750,000
----------	Research and training			9,500,000	9,500,000
	Office of Child Development				
92-15	Child Development	376,817,000	----------	376,817,000	376,317,000
	Special Institutions				
92-164	Howard University	13,209,000	13,209,000	13,209,000	13,209,000
	RELATED AGENCIES				
	Cabinet Committee on Opportunities for Spanish-Speaking People				
92-15, 92-93	Salaries and expenses	890,000	890,000	890,000	890,000
	Occupational Safety and Health Review Commission				
92-43	Salaries and expenses (by transfer)	(660,000)	----------	(660,000)	(660,000)
	Office of Economic Opportunity				
92-5, 92-93	Programs, salaries and expenses	780,400,400	----------	780,400,000	741,380,000
	Total, Related Agencies	781,290,000	890,000	781,290,000	742,270,000
	Total, chapter III:				
	Federal funds (new budget (obligational) authority)	2,684,655,000	334,439,000	3,401,667,000	2,838,790,000
	By transfer	(2,560,000)	----------	(2,560,000)	(2,560,000)
	CHAPTER IV				
	LEGISLATIVE BRANCH				
	Senate				
	Payment to widow of deceased Senator			42,500	42,500
	Salaries, officers and employees				
S. Doc. 92-46	Committee employees	21,770	----------	21,770	21,770
S. Doc. 92-46	Administrative and clerical assistants to Senators	597,535	----------	597,535	597,535
S. Doc. 92-46	Office of Sergeant at Arms and Doorkeeper	68,390	----------	68,390	68,390
	Contingent expenses of the Senate				
S. Doc. 92-46	Folding documents	14,000	----------	14,000	14,000
S. Doc. 92-46	Miscellaneous items	275,000	----------	275,000	275,000
	Fiscal year 1971 (by transfer)	----------	----------	(250,000)	(250,000)
S. Doc. 92-46	Stationery (Revolving fund)	17,400	----------	17,400	17,400
	Total, Senate	994,095	----------	1,036,595	1,036,595
	Fiscal year 1971 (by transfer)	----------	----------	(250,000)	(250,000)

Footnotes at end of tables.

Doc. No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
	House of Representatives				
	Gratuities to heirs of deceased Members		$85,000	$85,000	$85,000
	Salaries, officers and employees				
92-164	Office of the Sergeant at Arms	$2,070,000	1,550,000	1,550,000	1,550,000
	Members' clerk hire				
92-164	Clerk hire	1,500,000	1,000,000	1,000,000	1,000,000
	Contingent expenses of the House				
92-164	Miscellaneous items	1,338,000	1,000,000	1,000,000	1,000,000
92-164	Government contributions	60,000	----------	----------	----------
92-164	Postage stamp allowance	96,420	96,420	96,420	96,420
	Total, House of Representatives	5,064,420	3,731,420	3,731,420	3,731,420
	Joint Items				
	Capitol police				
92-164	General expenses	129,000	129,000	129,000	129,000
	Official mail costs				
92-164	Official mail costs	18,400,000	18,400,000	18,400,000	18,400,000
	Total, Joint Items	18,529,000	18,529,000	18,529,000	18,529,000
	Architect of the Capitol				
	Capitol buildings and grounds				
92-164	Capitol buildings	10,000	24,500	24,500	24,500
S. Doc. 92-46	Restoration of the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol	1,521,000	----------	1,521,000	----------
S. Doc. 92-46	Senate Office Buildings	66,000	----------	66,000	66,000
S. Doc. 92-46	Extension of additional Senate Office Building site	270,000	----------	270,000	270,000
92-164	House office buildings	25,000	25,000	25,000	25,000
S. Doc. 92-46	Modifications and enlargement, Capitol Power Plant	1,200,000	1,200,000	1,200,000	1,200,000
	Total, Architect of the Capitol	3,092,000	1,249,500	3,106,500	1,585,500
	Library of Congress				
92-164	Salaries and expenses	7,000	7,000	7,000	7,000
92-164	Copyright Office, salaries and expenses	4,000	4,000	4,000	4,000
92-164	Distribution of catalog cards, salaries and expenses	22,000	22,000	22,000	22,000
92-164	Books for the general collections	2,000	2,000	2,000	2,000
92-164	Books for the blind and physically handicapped, salaries and expenses	5,000	5,000	5,000	5,000
	Total, Library of Congress	40,000	40,000	40,000	40,000
	Total, chapter IV, new budget (obligational) authority	27,719,515	23,549,920	26,443,515	25,922,515
	Fiscal year 1971 (by transfer)	----------	----------	(250,000)	(250,000)
	CHAPTER V				
	PUBLIC WORKS				
	Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil				
S. Doc. 92-43	Construction, general	102,400,000	[6]34,100,000	102,400,000	102,400,000
	Department of the Interior, Bureau of Reclamation				
S. Doc. 92-43	Construction and rehabilitation	9,210,000	[7]7,000,000	9,210,000	9,210,000
S. Doc. 92-43	Upper Colorado River storage project	6,800,000	[8]4,800,000	[9]6,800,000	6,800,000
H. Doc. 92-164	Loan program	600,000	600,000	600,000	600,000
	Total, Bureau of Reclamation	16,610,000	12,400,000	16,610,000	16,610,000
	Total, chapter V, new budget (obligational) authority	119,010,000	46,500,000	119,010,000	119,010,000
	CHAPTER VI				
	DEPARTMENT OF COMMERCE				
	Economic Development Assistance				
----------	Development facilities	----------	30,000,000	30,000,000	30,000,000
	Minority Business Enterprise				
H. Doc. 92-164	Minority business development	40,000,000	40,000,000	40,000,000	40,000,000
	National Oceanic and Atmospheric Administration				
H. Doc. 92-164	Salaries and expenses	532,000	----------	----------	----------
S. Doc. 92-43	Satellite operations	4,919,000	----------	4,919,000	4,000,000
	Patent Office				
S. Doc. 92-43	Salaries and expenses	2,035,000	----------	2,035,000	2,035,000
	National Bureau of Standards				
H. Doc. 92-164	Plant and facilities	2,100,000	1,750,000	1,750,000	1,750,000
	Total, Department of Commerce	49,586,000	71,750,000	78,704,000	77,785,000
	RELATED AGENCIES				
	Commission on Civil Rights				
H. Doc. 92-164	Salaries and expenses	460,000	344,000	344,000	344,000
	International Radio Broadcasting Activities				
S. 92-45	Radio Broadcasting	36,225,000	----------	36,225,000	32,225,000
	Small Business Administration				
H. Doc. 92-164	Salaries and expenses	200,000	----------	----------	----------
	Total, related agencies	36,885,000	344,000	36,569,000	32,569,000
	Total, chapter VI, new budget (obligational) authority	86,471,000	72,094,000	115,273,000	110,354,000

Footnotes at end of table.

THE SUPPLEMENTAL, 1972 (H.R. 11955)—Continued

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

Doc. No.	Department or activity	Budget estimate*	Version of bill: House	Version of bill: Senate	Conference agreement
	CHAPTER VII				
	DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES				
	Office of the Secretary				
92-164	Transportation planning, research and development	$5,000,000	$2,500,000	$5,000,000	$2,500,000
	Federal Aviation Administration				
92-164	Research and development	[9] 15,033,000	15,033,000	15,033,000	15,033,000
S. 92-43	United States International Aeronautical Exposition	2,200,000	[10] (200,000)	[11] 2,200,000	[12] 2,000,000
	Federal Highway Administration				
92-164	Forest highways (liquidation of contract authorization)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Total, Department of Transportation	22,233,000	17,533,000	22,233,000	19,533,000
	RELATED AGENCIES				
	Aviation Advisory Commission				
	Salaries and expenses (Airport and Airway Trust Fund)			750,000	750,000
	Washington Metropolitan Area Transit Authority				
92-164	Federal contribution	38,011,000	38,011,000	38,011,000	38,011,000
	Total, chapter VII	60,244,000	55,544,000	60,994,000	58,294,000
	Appropriation to liquidate contract authorization	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Transfer		(200,000)		(200,000)
	CHAPTER VIII				
	TREASURY DEPARTMENT				
92-164	Bureau of Accounts, salaries and expenses	10,556,000	10,556,000	10,556,000	10,556,000
	POSTAL SERVICE				
92-164	Payment to the Postal Service Fund	216,400,000	216,400,000	200,000,000	200,000,000
	INDEPENDENT AGENCIES				
	General Services Administration				
	Construction, public buildings projects			11,200,000	
	Sites and expenses, public buildings projects			250,000	
92-151	National Archives and Records Service, operating expenses	636,000			
	Civil Service Commission				
92-164	Federal Labor Relations Council, salaries and expenses (limitation increase)	(12,000)	(12,000)	(12,000)	(12,000)
	Funds appropriated to the President				
S. 92-43	Economic Stabilization Activities, salaries and expenses	[13]		[14] (20,153,000)	[14] (20,153,000)
	Total, chapter VIII—new budget (obligational authority)	227,592,000	226,956,000	222,006,000	210,556,000
	Transfer	[1]		(20,153,000)	(20,153,000)
	CHAPTER IX				
92-164 and S. 92-45.	Claims and judgments	21,569,856	19,029,734	21,569,856	21,569,856
	Grand total:				
	New budget (obligational) authority	3,254,924,371	786,282,654	3,998,045,371	3,406,385,371
	Appropriation to liquidate contract authority	(20,000,000)	(20,000,000)	(20,096,000)	(20,096,000)
	Transfers	(6,732,000)	(5,846,100)	(26,459,100)	(26,659,100)
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)

* Estimates considered include $36,225,000 for international radio broadcasting activities and $2,540,122 for claims and judgments (S. Doc. 92-45); exclude $85,300,000 for other items transmitted in S. Doc. 92-45 of Dec. 2, 1971.

[1] For transfer to National Parks Centennial Commission.
[2] For transfer to departmental operations.
[3] By transfer from salaries and expenses.
[4] Changed to $3,746,100 after enactment of Public Law 92-76.
[5] By transfer from National Park Service, construction.
[6] Does not include additional $68,300,000 considered by Senate.
[7] Does not include additional $2,210,000 considered by Senate.
[8] House received no budget estimate.
[9] Requested under the heading "Civil supersonic aircraft development termination."
[10] By transfer from "Salaries and expenses, Office of the Secretary."
[11] $2,000,000 contingent upon enactment of authorizing legislation by the 92d Congress.
[12] And $200,000 by transfer.
[13] Unlimited transfer language.
[14] To be derived by transfer.

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 Judge 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 these 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:

> Upon some judicial tribunals it is enough perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is called for, here the widest, broadest, deepest questions of government and governmental policies are involved.

There is no doubt in my mind that Mr. Rehnquist is an able lawyer, a man both of deeply held convictions and personal integrity. If these were the sole qualifications for a Justice of the Supreme Court, then he should be confirmed unanimously. But there are other broader, deeper, more sweeping philosophical and constitutional matters at stake here which involve, as Senator Norris said, "the great question of human liberty."

We are concerned here with much more than technical legal ability and personal integrity. We are concerned about the makeup 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 to equality for all men and a mark of our form of government as to 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 entrusted 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. So one must concede that such judgments are a mix of subjective and objective considerations. Thus conscientious citizens concerned about the same great issues may very well reach different conclusions about the same man.

I claim no special insights or superior qualities of 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, it seems to me, go to the very heart of what 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 Government's requirements for expediency. 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 the 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 overview and protection of judicial supervision, he has also defended the right of the Executive to expand his 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 I believe 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 1895.

Thirteen years after the Supreme Court declared that segregated schools were inherently unequal, the nominee wrote a letter to the editor in 1967, opposing a modest program to implement this law of the land in the Phoenix schools. This is not a record which indicates to me a 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 intention of looking after the liberties of his fellow citizens . . . of discarding, if necessary, the old precedents of barbarous days and construing 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 and decisions should be widely or narrowly interpreted. Rather he makes it quite clear that he considers a full investigation of a nominee's social and political views on substantive issues of the day a proper and necessary subject for Senate inquiry.

It is clear from any historical view of the constitutional responsibilities assigned to the Senate through the "Advice 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 documents describing 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 Presidential preferences 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 for office 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 administra-

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 excesses of either executive or legislative pressures.

Decisions on nominations for the Court which are made today, can actively influence the quality of our society for many years in 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 the view that it is not only proper for the Senate to examine a nominec's judicial and political philosophy, but it is—

The Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values 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 E. Borah, of Idaho, 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 upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions.

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 unusual number of appointments to 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 Roles 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 . . . the possibility of changing the institution for many years beyond the President's term is raised. In such circumstances the Senate's obligation to advice and consent is no mere formality, 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 point in our Nation's 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, indeed to the Bill of Rights itself, the sudden appearance of two vacancies on the Supreme Court places a responsibility of historical significance in the hands of the President and the United States Senate.

We must be particularly concerned that the Supreme Court, in its role as final interpreter of the Constitution, continue to champion 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 come to understand, accept, and expound this view. Yet, just 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 choice will be made by the men who sit on this and future Supreme Courts.

Bit by bit, 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 fifth amendment and the right of protection against self-incrimination; the sixth amendment and the right to confront witnesses; the fourth amendment and protection against illegal searches and seizures; and the eighth amendment and the prohibition against cruel and unusual punishment.

These are still controversial issues in some parts of the political spectrum, however, and the questions of the level of guarantee provided by the Bill of Rights and its application to the States through the 14th amendment are not moot issues. At a time when 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. Increasing technical sophistication and electronic gadgetry have tremendously advanced the art of obtaining and storing vast amounts of information. With the proliferation of large private and governmental organizations the opportunity to impinge upon the actions and expressions of individual citizens is greatly expanded.

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, among other issues.

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. The preservation of 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 extended, 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 this and future Supreme Courts, it should be clearly stated that this is not an issue that pits the "rights of society against the rights of criminal defendants, of 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 24, 1971:

The balance that must be maintained is not, as Mr. Nixon would have it, primarily between the rights of society and those of accused criminals, although the protection of the latters' rights was indeed an accomplishment of the Warren Court that must not be undone 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 the weight of his opinion and reason in questions involving conflicts 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 a problem is a task of defining issues which any first-year law student should quickly master.

In addition to recognition of issues in-

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 and court protected civil rights and liberties play in our democratic society and form of government. Finally, it is necessary to inquire whether recognition, understanding, and sensitivity for individual freedom will be aggressively promoted and given privileged consideration when placed in conflict with exercises of governmental power.

The attention which 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 York Times when he died this 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 keeping a copy with him at all times and buzzed for his secretary to ask the whereabouts of his Constitution:

"I like to read what it says, I like to read the words of the Constitution," Justice Black said in a slight Southern drawl, after dispatching the secretary to fetch one. "I'm a literalist, I admit it. It's a bad word these days, I know, but that's what I am."

Shortly, the Constitution was delivered. Hugo Lafayette Black, then 81 years old and completing his 30th year on the United States Supreme Court, laid it tenderly on his lap and opened it to the Bill of Rights.

"Now," he said with a warm smile, "now let's see what it says."

It is certainly not too much to require that we look beyond the intellectual capacity of a Supreme Court nominee and ask whether in addition to proper pronunciation of the words there is any affection for the spirit in his reading of the Constitution and the first 10 amendments.

My review of the civil liberties record and statements on this subject by Mr. Rehnquist leads me to conclude that whenever there is a clash between the rights of individual citizens and the exercise of governmental powers, the nominee comes down on the side of State power.

Mr. Rehnquist's record with regard to civil liberties issues has been primarily established as an Assistant Attorney General in this administration. As such, his statements and speeches have most often been as the defender of the administration position, rather than as a private citizen. There is no indication in the public record, however, that Mr. Rehnquist has disassociated himself with any of the administration's positions, has disagreed with these positions or has given a contrary personal view. Therefore, they stand as his record and his views.

I believe that a focus upon several of the specific positions that Mr. Rehnquist has advocated will be sufficient to show a strong preference for the expansion of governmental powers at the expense of individual liberties.

In testifying before Senator ERVIN's Subcommittee on Constitutional Rights on the subject of limitations on Government surveillance of private citizens, Mr. Rehnquist said:

I think it quite likely that 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.

Obviously, reliance upon executive self-restraint is no guarantee of liberty at all.

He later attempted to explain this remark by indicating that executive "self-restraint" should be assumed in a context of constitutional and legislative limitations. A further look at the written record, however, would indicate that while Mr. Rehnquist feels that it is not proper for the "Department of Justice or of any other governmental agencies to surveil or otherwise observe people who are simply exercising their first amendment rights," if the Justice Department should go ahead and snoop on public meetings anyway, "I do not believe it violates the particular constitutional rights of the individuals who are surveilled."

Furthermore, in a later speech, he indicated his opposition 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 should be any judicially enforceable limitations on the gathering of this kind of public information by the Executive Branch of the government. Must we then leave the government to police itself? My answer would be that first, such a result is not as bad as it may sound, and, second, that forms of oversight other 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 informational gathering zeal by the executive branch. Oversight, by its very definition, can only take effect after the injury has occurred.

This viewpoint indicates to me overemphasis on governmental investigatory powers and a complete misunderstanding of the effect which the unrestrained 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 we can adequately protect 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 enough to say that 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 boundaries of these investigatory activities and formulate specific controls to limit the powers of surveillance to their authorized scope and halt excessive or unwarranted snooping before it happens. This will not be accomplished through reliance upon self-restraint by the agency doing the snooping or by calling for an investigation after a bout of dossier stuffing by an arm of the Government.

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. BAYH'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. It is apparent that Mr. Rehnquist does not feel that constitutional infringements upon individual liberties occur until data that is improperly or illegally gathered is actually used against someone, even though the original gathering of this information was not a legitimate function of Government. In answer to a question from Senator ERVIN asking whether an interference with the constitutional rights of participants at a rally had occurred where Army intelligence agents pretending to be photographers had taken pictures of participants, and then built up informational dossiers, Mr. Rehnquist replied:

I do not, Senator. I think, from my 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 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 intelligence gathering 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 without 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 retaliatory action itself, which causes the greater harm, for it makes no distinction between those it touches with its muzzling effect.

The difficulty with not only making individual liberties conditional upon the expedient needs of Government, but also making the executive the arbitrator of this balancing act, is perhaps best exemplified in the area of Government surveillance by wiretapping or electronic devices.

There is no doubt that the use of sophisticated electronic equipment which is now available makes the gathering of information an easier task for law enforcement officials. The ability to surreptitiously monitor purely private and personal conversations through these electronic means, however, also makes this practice a greater threat to individual freedom and rights of privacy. The measure of acceptable use, therefore, is particularly dependent upon the extent of the authorized applications, and the methods of control that are applied to insure that wiretapping or other electronic bugging use is kept well within its restricted boundaries.

The practice of wiretapping or electronic surveillance are serious invasions of privacy. They must be carefully prescribed and restricted to the most serious of law enforcement issues—national security and organized crime. Even with these exceptions, we must be sure to exactly define the boundaries and limits of the practice, for what is national security to one person may be protected political expression 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 authorities. His supporters quote this statement during the hearings in support of Mr. Rehnquist's recognition of the first line to be drawn between the Government's desire to tap 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 outlawed all private wiretapping and which required, except in a national security situation, prior authorization from a court before wires could be tapped.

Again, in a speech before the American Bar Association Convention in London this summer, Mr. Rehnquist specifically used the example of organized crime to justify governmental wiretaps:

When we deal with the activities of organized crime, we deal with the most sordid sort of trafficking in drugs, prostitution, and gambling, as well as in illegitimate aberrations of legitimate business. Persistent efforts, not always unsuccessful, to corrupt local law enforcement officials; murder, committed by anonymous hired guns, are its trademarks. Normal detection techniques of Sherlock Holmes, Hercule Poirot, and the long succession of Scotland Yard inspectors who have been immortalized in print, are of far less use here . . . Is the invasion of privacy entailed by wiretapping too high a price to pay for a successful method of attacking this (organized crime) and similar types of 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's other statements and his support as an advocate for the Justice Department are taken into consideration, however, a quite different view of Mr. Rehnquist's sympathies and convictions emerges.

The fact of the matter is that this administration and the Justice Department have actively moved to expand the use of wiretaps far beyond the stated limitation of organized crime. In the District of Columbia crime bill which they presented to Congress last year, the authority for electronic surveillance given in S. 2601 went far beyond the exception and limitations mentioned by Mr. Rehnquist for organized crime. The offenses for which the Justice Department advocated wiretapping included: Arson, blackmail, bribery, burglary, destruction of property of value in excess of $200, gambling, grand larceny, kidnaping, murder, obstruction of justice, receiving stolen property of value in excess of $100, robbery, extortion, and offenses involving dealing in narcotic drugs, marihuana, and other dangerous drugs. Now, as deplorable as these criminal activities are, there is no doubt that this is not a list of activities designed to restrict the use of wiretaps to the fight against organized crime.

Furthermore, Mr. Rehnquist has not only supported the Justice Department's efforts to expand the scope of court authorized wiretaps beyond the activities of organized crime, he has been an active force in the Justice Department's advocacy of expanding the right of the executive to wiretap without securing any fourth amendment type of warrant from the courts whatsoever in certain situations.

As previously noted, there is a limited exception to the general rule that the fourth amendment requires court supervised wiretaps that has been granted to cases involving "national security." This exception is based upon a 1940 Presidential order authorizing the use of wiretaps against "persons suspected of subversive activities." Mr. Rehnquist, however, has advanced the claim that this order gives the executive, through the Attorney General, the inherent power to authorize the use of electronic surveillance wherever and whenever the Attorney General determines on his own initiative that "the use of such surveillance is reasonably required in the interests of national security," and that this power extends not only to foreign agents but covers U.S. citizens and domestic activities which are not otherwise illegal as well.

In answers to supplemental questions to the confirmation hearings, Mr. Rehnquist indicated that he had advised the Attorney General to no longer advocate the Department's previous position that it had the "inherent power" to tap, but only because of tactical reasons. He still supported the position that unsupervised wiretapping by the executive is reasonable under the fourth amendment where the Attorney General decides on his own that the security of the Nation is threatened by domestic elements.

There is no justification for extensive Government snooping into domestic political activities based upon President Roosevelt's 1940 order. In the first paragraph of his order, President Roosevelt recognized the danger of widespread Government spying when he agreed with the Supreme Court that it was—

Also right in its opinion that under ordinary and normal circumstances wire-tapping by government agents should not be carried on 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 interest to "grave matters involving the defense of the Nation," to "persons suspected of subversive activities against the Government of the United States, including suspected spies," and specifically requested his Attorney General to "limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens." The exigencies of subversion, treason, espionage, and sabotage during World War II conducted by agents of foreign powers are a far cry from the political protests and expressions of political freedom and dissent during the late 1960's and 1970's by U.S. citizens who hold views contrary to those of established power in Washington.

The initial fallacy of the position enunciated by Mr. Rehnquist in expanding the use of unsupervised wiretaps from foreign agents to domestic elements upon the Attorney General's own finding of subversion is the failure to note the important distinctions between the Government's rights 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 or punish unlawful acts in the domestic arena, not unpopular acts or iconoclastic thoughts. Yet, in a speech at Brown University reported in the Providence Journal of March 11, 1971, it is just such domestic political activities, which cannot support a court-ordered tap for the control of organized criminal activity, that Mr. Rehnquist wants to get at through a tap based upon the "national security" exception.

To permit Government surveillance of lawful activity would have a disastrous effect upon the willingness of individual citizens and organizations to exercise their 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. Ferguson pointed out in a recent case involving 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 cannot act in this manner when only domestic political organizations are involved, even if those organizations espouse views which are inconsistent with our present form of government. To do so is to ride roughshod over numerous polit-

ical freedoms which have long received constitutional protection. (United States v. Smith 321 F. Supp. 424 (1971))

As Judge Ferguson concluded in United States against Smith:

To guarantee political freedom, our forefathers agreed to take certain risks which are inherent in a free democracy. It is unthinkable that we should now be required to sacrifice those freedoms in order to defend them.

To allow the Attorney General to decide upon his own initiative who is a domestic threat to the national security, and then to proceed to tap without court supervision, may be consistent with Mr. Rehnquist's theories of how to balance civil liberties with executive power. In my view, this philosophy is a radical departure from our founding principles and does violence to the Constitution and free political expression in this country.

Also included in the District of Columbia crime bill was a provision authorizing police officers under some circumstances to enter a dwelling without previously knocking or identifying themselves. Mr. Rehnquist asserted in a December 2, 1970, speech that—

This provision of law is actually nothing more than a codification of constitutional law, and of practices which were held not to violate 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 actuality a vast expansion of this authority and is not merely codification of existing common law as the nominee states. While it is true that the common law does recognize certain exceptions to the fourth amendment's requirement that Government officers must announce their presence before entering a man's home, the District of Columbia crime bill which Mr. Rehnquist supported expands these exceptions greatly and therefore is not mere codification.

No-knock authority raises very serious questions of diminishing the fourth amendment guarantee of the right of the people "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." History 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. 301 (1958) Justice Brennan discussed the legal history of the common law prohibition of "no-knock" or unannounced entries in private homes.

The requirement was pronounced in 1603 in Semayne's Case, 5 Coke 91, 11 ERC 629, 77 Eng. 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 other execution of the K(ing)'s process, if otherwise he cannot enter. *But before 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 governmental power and guarding against making expendiency the prime factor in law enforcement:

We are duly mindful of the reliance that society must place for achieving law and order upon the enforcing agencies of the criminal law. But insistence on observance by law officers . . . of traditional fair procedural requirements is, from the long point of view, best calculated to contribute to that end. However much in a particular case insistence upon such rules may appear as a technicality that inures to the benefit of a guilty person, the history of the criminal law proves that tolerance of short-cut methods in law enforcement impairs its enduring effectiveness. The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application. Congress, codifying a tradition embedded in Anglo-American law, has declared in Sec. 3109 the reverence of the law for the individual's right of privacy in his house. Every householder . . . the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house.

The ease 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 reminds me of an earlier period in Anglo-American history. At one time the British Parliament had taxed cider and the authorities were having a difficult time collecting 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, bid defiance to 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 enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

It would appear that as years pass and Kings give way to Presidents, and Parliament to Congress, it is necessary to reaffirm 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 day and present 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 Supreme Court nomination. 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 arguments for the expansive interpretation of traditional constitutional doctrines dealing with the limits of governmental powers. In his public briefs on the issue of the Government and the Bill of Rights, he has been consistent in his advocacy for the broadest reading of constitutional provisions and judicial decisions 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 promoted the narrowest view.

Thirteen years after a unanimous Court, including Justice Jackson, had decided Brown against Board of Education in 1954 and declared the constitutional principle that segregation in the school systems was "inherently unequal," Mr. Rehnquist wrote to the editor of the Arizona Republic on September 9, 1967, to criticize the Phoenix school superintendent's very modest "integration program" for the Phoenix high schools. While Mr. Rehnquist recognized that in this society each man should be equal before the law, this equality, despite the Supreme Court's express holding to the contrary, did not involve a commitment to integrating the schools. In his letter he said:

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 . . .

This is not only a perversion of constitutional holding, but contrary to the dominant thought in the country at that time.

The State of Wisconsin enacted a tough public accommodations law in 1895 guaranteeing to all persons of every race and color the right of full enjoyment of "inns, restaurants, saloons, barber shops, eating houses, public conveyances on land and water, theaters, and all other places of public accommodation and amusement." Sixty-nine years after Wisconsin declared her opposition to discrimination in public facilities, Mr. Rehnquist appeared before the Phoenix City Council in 1964 to oppose a modest municipal public accommodations law. When the ordinance passed, the nominee wrote a letter to the editor of the Arizona Republic calling the passage a "mistake" and elevated economic rights above human rights.

When President Nixon announced his two nominations for the vacancies which existed upon the Supreme Court on October 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 appointments 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 President, himself, has consistently said he would nominate men to the Supreme Court who reflected his philosophy. He reminded us in his speech on the two nominations that—

I pledged to nominate to the Supreme Court individuals who shared my judicial philosophy, which is basically a conservative philosophy.

When he went on to give specific examples of what he meant by a "conservative judicial philosophy," however, it became readily apparent that the President was not talking about what is the

accepted legal concept of that term—that is, a decider of individual cases who honors precedent 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, political, and personal 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":

> Nor is the law of the Constitution just "there" waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan 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 present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. 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.

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 Supreme Court. 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, the 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 unrestricted review, not embarrassed 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, unencumbered by deference to the President's, as a satisfactory basis in itself for a negative vote. I have as yet seen nothing textual, nothing structural, 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 are at such variance with my own that I am unable to support his nomination.

PUBLIC OPPOSITION TO WILLIAM REHNQUIST

Mr. BAYH. Mr. President, I ask unanimous consent that a sample of the outpouring of public opinion in 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, a number of statements by national organizations opposed to Mr. Rehnquist. The organizations include the American Federation of Labor and Congress of Industrial Organizations, the American Civil Liberties Union—for, I might add, the first time in its history taking a position on a nominee—the Leadership Conference on Civil Rights, the Ripon Society, the National Legal Aid and Defender Association, the Washington Council of Lawyers, the Chicago Council of Lawyers, and the National Catholic Conference for Interracial Justice.

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 to the contrary that any 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 far 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 recall that its traditional deference to Presidential nominations is an institutional courtesy rather than a constitutional command.

Assistant Attorney General William H. Rehnquist's published belief that the Senate has an obligation to inquire into the basic philosophy of a Supreme Court nominee is applicable to his own position today. The question is whether the nominee should be evaluated by the Senate in terms of his 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 reject a candidate because 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 owes it to the Court and the American people to keep partisan politics out of his judicial appointments, he ought to have the broadest latitude in his selections so long as they are made within the context of the American democratic system. What this means is that the candidate, whether liberal or conservative, of the right or of 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.

The choice of Lewis F. Powell presents in this context relatively little difficulty. A leading lawyer of Richmond, a highly regarded member of the profession, a thorough-going conservative in political philosophy, Mr. Powell has demonstrated during a long record of service to the community as well as to the bar that he has the requisite personal, intellectual and basic philosophic qualities.

The same cannot be said for Mr. Rehnquist. Though he is undoubtedly a capable lawyer of impressive academic and intellectual attainments, his entire record casts serious doubt on his philosophic approach to that pillar of the American constitutional system, the Bill of Rights. On every civil liberties issue—wiretapping, electronic surveillance, "no knock" entry, preventive detention, rights of witnesses before Congressional committees and state legislatures, the rights of the accused—Mr. Rehnquist's record is appalling. He seems to have scant respect for the individual citizen's right to privacy, relying on "self-discipline on the part of the executive branch" to provide the protection needed. But if "self-discipline" by Government officials were sufficient in such circumstances, why would this nation need the carefully defined safeguards of the Bill of Rights?

* * * * *

What alarms us about Mr. Rehnquist is not the conservatism of his views—Mr. Powell certainly shares that characteristic—but our conviction on the basis of his record that he neither reveres nor understands the Bill of Rights. If this is so, then he certainly does not meet the basic requirement that a justice of the Supreme Court be philosophically attuned to the irrevocable premise on which the American political structure rests: the protection of individual liberty under law, particularly against the repressive powers of government.

The Constitution leaves room for a wide diversity of political and social interpretation and even of judicial philosophy; but through the issues of human freedom as set forth in the first ten amendments there runs a basic imperative that cannot be dismissed and must not be trifled with. A deep-seated respect for these liberties, a belief that they cannot be arbitrarily abridged or diminished by any power, even that of the President, is indispensable for service on the Supreme Court.

Mr. Rehnquist's elevation to the Supreme Court could have a critically regressive effect on constitutional protection of individual liberties for a long time to come. On Mr. Nixon's own premises, the Senate would be within its rights in insisting that while it may be content to accept a distinguished conservative like Mr. Powell, it is not obliged to accept a radical rightist like Mr. Rehnquist.

[From the Washington Post, Nov. 28, 1971]

THE SENATE, THE COURT AND THE NOMINEES—II

A fe wdays 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 . 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 suited intellectually and professionally for the positions to which they have been nominated, perhaps better suited in those re-

spects than any of the four men previously selected by Mr. Nixon for the court. We are aware of no incident in the record of either man that raises the kind of questions that plagued the nominations of Judges Haynsworth and Carswell. That leaves open only (1) the matter of the views they hold of the Constitution, or to be more precise about what is troubling us, the sensitivity they have shown toward the Bill of Rights and (2) the commitment they have demonstrated to undo some of the court's recent interpretations of those amendments. It is here that the records of the two men differ.

These aspects of their constitutional philosophy are particularly relevant now because the court is narrowly divided on some issues that arise under the First, Fourth, Fifth and Sixth Amendments. Its general 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 reverse. In judging these two men, then, the Senate has to decide how far their confirmation would move the court toward President Nixon's goal—and whether it wants to let him move the court that far.

There are, or so it seems to us, three striking themes which run through most of the writings and speeches of Mr. Rehnquist over the last 15 years. These are : (1) his lack of understanding of the problem of racial discrimination as late as 1964; (2) a somewhat cavalier attitude toward interpretations of the Bill of Rights 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 oppose a public accommodations law in 1964 and he now explains his opposition on the ground that he did not understand "the strong concern that minorities have for the recognition" of their rights. We can't help wondering where he was during the years preceding 1964 when the depth of feeling about such matters was driven home so eloquently by Dr. King and others. But we accept his current statement that his horizons have broadened since then. Perhaps they will broaden more. Beyond this, however, the area of civil rights is not one in which his presence on the court is likely to make much difference one way or the other. It's course in that area seems well nigh irreversible.

The second aspect of Mr. Rehnquist's views that has been questioned is the degree of sensitivity he has shown toward the concepts underlying the Bill of Rights. It is possible to review his record and come away with the feeling that he thinks those on the other side of the constitutional argument are, almost by definition, Communists, criminals and pornographers. But it is also possible to come away with the feeling that he has merely expressed his position strongly and perhaps was carried away in his rhetoric by the zest of the struggle. On this matter we are inclined to give him the benefit of the doubt, based principally on the testimony of some of those who have known him well, that he is thoughtful and careful in his approach to constitutional questions.

The philosophy that ties his speeches and writings together is one in which property rights outrank human rights and in which the power of government to trample on the civil liberties—free speech, privacy, peaceful protest, and the rest—of its citizens outranks the restrictions placed on his power by the Bill of Rights. In his view, a store owner's desire to select his customers outweigh a customers' desire to be served there; the government's interest in collecting information is more important than an individual's interest in being free from surveillance; the majority's interest in suppressing pornography or in convicting criminals far outweighs the individual's right to read or to be safe from self-incrimination, and so on. This is a view of the Constitution we do not share. But it is a view Mr. Nixon shares and the view he has said he will try to make dominant on the Supreme Court.

So far as Mr. Powell is concerned, we do not find in his record the first two of these three themes. He has been fully aware of the issues of our times and sympathetic toward, if not always in agreement with, interpretations of the Bill of Rights that are not his. On the third point, there may well be little difference between his views of the Constitution and those expressed by Mr. Rehnquist. But there may be a decided difference in the commitments of the two men to do something about this trend of the court. We have the distinct impression that Mr. Rehnquist is intellectually committed to the overturning of several of the court's major decisions of the last 15 years involving the Bill of Rights. Mr. Powell may or may not have such deeply held views and it is conceivable that on some key votes he will surprise the President. We doubt that Mr. Rehnquist has such flexibility. And given the balance on the court now, this is a factor the Senate must weigh. Thus, the choice before the Senate is especially difficult.

Those senators who share our perspective on the paramountcy of civil liberties questions in this matter and on the essential correctness of the course staked out on these questions by the court in recent years could in fact argue the case for voting to confirm Mr. Rehnquist on several pragmatic grounds. One is that the prediction of how a justice will vote is a chancy and accident-prone business. Justices have often turned out to be quite different (once on the court) from what their previous records might have led one to expect. President Kennedy's appointee, Justice White, and President Eisenhower's appointee, Chief Justice Warren, are recent examples. Another argument might be that the addition to the court, at this time, of a particularly strong anti-civil libertarian voice could easily have the effect of impelling some of its present members in the other direction. Finally, there would be the argument that the rejection of Mr. Rehnquist would likely only bring forth from the President another nominee of similar view and lesser professional competence—thus setting off what would be, at best, another prolonged and corrosive struggle. For all its plausibility and practical attractiveness, however, this last point deserves special comment, since it amounts to an indirect abdication of the individual senator's constitutional right and duty to exercise his judgment on the President's Supreme Court nominees: neither the likelihood of Mr. Rehnquist's confirmation (which seems real) nor the course the President might take if his nominee is rejected seems to us an adequate basis on which to determine the way a senator votes on this nomination. This would be especially true of a senator who shares the reservations and apprehensions we have spoken of in connection with Mr. Rehnquist.

For against all the pragmatic hopes and speculations set forth above that might argue for his confirmation, one must consider another set of possibilities, no more certain but much more dire. Which is to say, a vote to confirm Mr. Rehnquist is 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 holding his point of view. The breaks of history have given President Nixon a chance to achieve his goal of changing the court's direction with four nominations within the first three years of his term, an opportunity provided only two other Presidents—Taft and Harding—since the Civil War. Nor is there compelling evidence that Mr. Rehnquist is a flexible and moderate man who might or might not help the President reach his goal. On the contrary, on the basis of his record of articulate commitment, it would seem that his might well become the vote and the voice that tipped the balance. Those senators who believe, as we do, that the preservation of vital, court-defined civil liberties is 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]

THE HIGH COURT NOMINEES—2

For the United States Senate to concur at this time in President Nixon's nomination of Asst. Atty. Gen. William H. Rehnquist to the Supreme Court would be, on the basis of all available information, a dereliction of the Senate's duty to the Constitution, to the high court, and to the people of the United States.

This is not said lightly. Mr. Rehnquist is a man of superior intellectual and technical qualifications. But the record to date is virtually bare of evidence that he is anything but hostile to the principle that the Supreme Court's central role in our Constitutional system is to stand as the ultimate guardian of human rights and liberties.

Invoking the doctrine of lawyer-client confidentiality, Atty. Gen. Mitchell has declined to permit Mr. Rehnquist to complete the record by giving the Senate Judiciary Committee his precise personal views on such hard-line Administration policies as preventive detention, "no-knock" laws, wiretapping and electronic surveillance of US citizens, and indiscriminate mass arrest of demonstrators.

Mr. Mitchell asserts that for Mr. Rehnquist to discuss these matters in full detail with the Judiciary Committee would jeopardize the attorney general's future access to "the free exchange of ideas and thoughts so essential to the proper and judicious discharge of my duties."

This is preposterous. The Senate has an unlimited right to be informed of the personal views of a prospective member of the Supreme Court. Mr. Rehnquist himself said as much when he urged in the Harvard Law Record in 1959 that the Senate should vigorously exercise its former practice "of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

The lawyer-client privilege makes great good sense where the client is a private citizen and any breach of confidentiality by his lawyer would jeopardize the legal rights of the client in pending proceeding.

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 affecting individual rights, and where the lawyer is a nominee for a seat on the Supreme Court, is just untenable.

AN ADDED IRONY

It is an added irony that an attorney general so callous about the privacy and personal security of ordinary citizens should plead that his own official privacy transcends the Senate's—and the public's—right to learn all about Mr. Rehnquist's views before his nomination is acted upon.

Mr. Rehnquist is on record as saying, in effect, that when it comes to Supreme Court nominees, the Senate should adamantly refuse to buy a pig in a poke. But Mr. Mitchell is now asking that the Senate do just that.

The Administration should not be permitted to have it both ways in this vital matter.

In his testimony before the Judiciary Committee last week, Mr. Rehnquist did in fact

engage in some slight breaches of confidentially—where it suited his purposes to do so.

For example, he told Sen. Edward M. Kennedy that he had felt there was "a misguided and unwarranted use of force" by National Guardsmen in the Kent State shootings, but that he never communicated his private feeling to the attorney general because "he never asked me" and other agencies were at work on the case.

Again, he testified that he had argued successfully within the Justice Department for abandoning the novel claim that the government had "inherent power" to wiretap domestic subversives without prior court permission.

It is true that in his testimony Mr. Rehnquist did back off a little from earlier public positions against free access of blacks to places of public accommodation and integration of public schools. But these remarks were scarcely reassuring in light of his long and theretofore unmitigated public opposition to civil rights.

Mr. Rehnquist has denied in an affidavit that he was ever a member of the John Birch Society in his home town, Phoenix, Ariz., as charged by New York newsman Sidney Zion. This denial must be taken at face value. Mr. Rehnquist has a reputation for veracity. Indeed, even if he had been a member of this organization, that fact, standing alone, would not be grounds for condemning him. The right of free association is everyone's right. People join organizations for myriad reasons, and similarly leave them. The critical issue is not what people join but what they do.

In this connection, the record on Mr. Rehnquist probably does not indicate the full extent to which he may have actively worked for political causes in the 16 years during which he engaged in the private practice of law in Phoenix. And this is information which the Senate Judiciary Committee ought to have, and should demand. And man's political actions and beliefs are necessarily related to the question of what sort of "judicial philosophy" he may bring with him to the bench, especially the bench of the Supreme Court, which is the ultimate arbiter of controversies 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 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."

Consider this appraisal of Mr. Rehnquist's political stance by John P. Frank, a noted 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 put the manacles back on the slaves, but I'm sure from his point of view that it will be more than a pause . . . there will be backward 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 police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 percent in favor."

iWth a good lawyer's ingrained respect for professional excellence, Mr. Frank states that despite this appraisal of Mr. Rehnquist his nomination should be confirmed by the Senate.

As the record now stands we cannot agree, and the fact that Mr. Rehnquist is a 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 uncontradicted, and Mr. Rehnquist's nomination is confirmed, then a society already grievously polarized will become more so. It is vital that our highest court of justice be able to carry out indefinitely its constitutional mission of protecting the liberties of the people against any excesses of the Federal and local governments. That is why the judicial philosophy of a nominee to that court is so important, and why it should be explored further.

[From the Boston Globe, Dec. 6, 1971]

MR. BROOKE ON MR. REHNQUIST

Sen. Edward W. Brooke's opposition to Asst. Atty. Gen. William H. Rehnquist could be a determining factor in the soon-to-be-recorded Senate vote to confirm or reject Mr. Rehnquist as an associate justice of the United States Supreme Court.

Mr. Brooke was right in all of the reasons for his opposition to Mr. Rehnquist. But there are other reasons, too. Mr. Brooke does not oppose Mr. Rehnquist because he is a conservative, a Southerner or a strict constructionist. Nor do we. His opposition is based on his determination, after long study, that Mr. Rehnquist is lacking in commitment to an integrated society. It is unfortunate that some of the senator's colleagues are inclined to excuse this as unimportant.

Mr. Brooke has noted 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 comment at that time that "we are no more committed to an integrated society than we are to a segregated society," Mr. Brooke finds this view "unsupportable." Such 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 right to be. If Mr. Rehnquist were to be confirmed, Mr. Brooke hopes that he might serve in the great tradition of the late Justice Hugo Black, at one time a member of the Ku Klux Klan, and that he might demonstrate on the Court, as Mr. Black did, "a capacity to grow and change."

This might be. But to confirm a nominee in the hope that he might change would be not only a fool-hardy gamble. It also would amount to the ludicrously untenable assumption that, in this nation, replete with great legal talent, Mr. Rehnquist is the only available candidate—confirm him, for there is no other.

Mr. Brooke did not suggest, as we wish he had, that Mr. Rehnquist's vulnerability is manifest in the Administration's insistence that his and the almost unassailable Lewis F. Powell Jr's nomination be considered as a kind of package deal, as though they were one of baseball's double play combinations—Tinker and Evers, say. Or was it Chance? There scarcely could be a franker acknowledgment that Mr. Rehnquist cannot stand scrutiny on his own. Nor is it enough that he is generally acknowledged to be "a fine gentleman," as one of his Senate supporters has put it.

Mr. Brooke, weighing his own heavy responsibilities as a senator, has asked pertinent questions and reluctantly found that the right answers are still wanting. Mr. Rehnquist may be every bit as brilliant as he is said to be. But how can his supporters rationalize their support for him so long as they quite literally have no way of fully knowing his views on matters on which he steadfastly has refused to be questioned and on which the Administration will not permit him to be questioned? Mr. Rehnquist, hiding behind a dubious lawyer-client relationship, has, in effect, "taken the Fifth"—unprecedented and intolerable in confirmation proceedings.

Sen. Brooke was one of the leaders in the Haynsworth and Carswell rejections. It is to be hoped that his Senate colleagues will listen to him now as they listened to him then.

[From the Chicago Sun-Times, Dec. 5, 1971]

POWELL, YES—REHNQUIST, NO

The Senate will vote Monday on President Nixon's latest nominations to the Supreme Court. The choice of Lewis F. Powell, Jr., a distinguished Southern lawyer highly regarded in his own profession, would seem to present few difficulties. Powell is a thoroughgoing political conservative who has demonstrated in his writings and actions a commitment to the basic philosophic premises of American democracy. He has understood the constitutional mandates that all citizens be treated equally, that personal liberties be rigorously safeguarded and government powers limited. Indeed, his healthy skepticism of state authority and his regard for individual rights are true to one of the oldest strains of conservative thinking. We urge his confirmation by the Senate.

Mr. Nixon's other choice, Assistant Atty. Gen. William H. Rehnquist, presents a far more troubling dilemma. Like Powell, Rehnquist has impressive legal and intellectual credentials and a reputation for hard work and personal integrity. But his record, both in and out of government, casts grave doubt on whether he understands and reveres the Bill of Rights, which is the pillar of the American constitutional system.

Rehnquist's writings, actions and recent testimony characterize him as a zealous proponent of unharnessed state power. He has shown a corresponding insensitivity to the need for protecting individual liberty and equality from the potential repression of government.

His attitudes toward government surveillance, criminal procedure protections, equal access to public accommodations, the free speech interests of federal employes and witnesses before congressional and state legislative bodies demonstrate persistent hostility to constitutional protections of privacy, unfettered expression and equal justice. Where he modified his positions in recent Senate testimony, he did so in a manner that left unchanged the basic views and reasoning which led to his earlier stands.

In short, Rehnquist is no conservative but rather a radical rightist. * * * No ideological radical—from either 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 not a legal reasoner. Extensive research of his record shows that he argues back from desired conclusions to their justifications.

Such a philosophic predisposition transcends specific political and social views. That is a key point, because we don't think it reasonable to vote a nominee up or down solely on the basis of differing views on current affairs. It is essential to foster vigorous stands in public life and it is worth remembering that judges change their opinions sometimes drastically. But most importantly, there is no one correct way of approaching the great issues of our society. Therefore we would not expect to agree with all the views of any nominee to the Supreme Court and currently do not in the case of nominee Powell.

It is necessary, however, to be philosophi-

cally attuned to the basic concepts of American life built into the Bill of Rights. On that score we find Rehnquist grievously wanting and recommend that the Senate vote no on his nomination to the Supreme Court.

The Senate has ample precedent for rejecting nominees on philosophic grounds, stretching all the way back to the denial of President Washington's selection for chief justice, John Rutledge. In this century, the recommendation of Judge John J. Parker was similarly turned back. During the Senate debate then, that great Nebraska senator, George Norris, focused the issue and what 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 and the late Hugo Black, we can easily support Lewis Powell, but must oppose confirmation of William Rehnquist.

Powell, 64, a Richmond, Va., lawyer and former president of the American Bar Association, is the third Southern conservative nominated by Mr. Nixon. A racial moderate, Powell would bring to the court unquestionable standards of professional achievement, judicial temperament and personal integrity.

Rehnquist, 47, a Phoenix, Ariz., lawyer, has unfortunately exhibited during his last two years as assistant attorney general a marked insensitivity to basic constitutional concepts.

In 1964, Rehnquist opposed a Phoenix City ordinance prohibiting racial discrimination in public accommodations, despite federal law to the contrary. (He changed his mind last Wednesday.)

In 1967, he defended the separate but equal educational 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 added that public employees who differed publicly with President Nixon could lose their jobs.

In December 1970, he told Congress that preventive detention (jailing of unconvicted defendant on the ground he might commit a crime if freed before trial) was valid and proper.

In March 1971, he defended government data banks kept on law-abiding citizens whose only crime was opposition to government war policies and other lawful activity. He changed a bit Thursday, saying government surveillance of peaceful activities was unconstitutional, but only if it had a "chilling effect" on exercise of the right to free assembly.

In July 1971, he supported expanded federal wiretap powers without recourse to court permission. Last week he said he advised the Administration against taking an official 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 defendant rights surrounding May Day arrests in Washington, and maintained that presidents have the right to fill Supreme Court vacancies without congressional interference, in utter disregard for 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 pattern of political extremism outside the fundamental support for the Constitution which every Supreme Court justice must possess. This pattern is sufficient, we think, for any senator 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 the burden has been transferred to the U.S. Senate. It has the constitutional duty and the resources to investigate every nominee fully. These duties cannot be delegated—either by the president or the Senate.

[From the St. Louis Post-Dispatch, Nov. 22–28, 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 more trouble. On the Senate floor, his nomination should face defeat.

Long before his nomination Mr. Powell had proved himself both a highly respected attorney and a thorough conservative. Mr. Rehnquist is an intelligent man and an able lawyer, but as a conservative is something else again.

We do not refer here to the questions arising about his alleged membership in an extremist right-wing group in his native Arizona, which Mr. Rehnquist flatly denies. That is secondary. If Mr. Rehnquist's supporters were willing to make comparison with a great champion of liberties, they could note that the late Justice Hugo Black once belonged to the Ku Klux Klan. But Justice Black had a fine record in the Senate by which he could be judged before he was placed on the court. Mr. Rehnquist'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 measures such as a public accommodations ordinance and school bussing. As an assistant attorney general he has championed, not the people's liberties, but Attorney General Mitchell's repressive ideas: arbitrary wiretapping in some cases, preventive detention which means jail without trial, the "no-knock" police raid and so on. Indeed, he once charged that Communists "scored significant victories" from decisions of the court to which he now aspires.

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 confided to the Commander in Chief." No president, however, has asserted so sweeping a doctrine. Though Mr. Nixon has said no court nominee should "twist or bend" the Constitution to promote political views, that is what his nominee did 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 in the confirmation process is ability and honesty or, to put it crassly, if a nominee is a member of the bar in good standing and is not a crook, that is enough. Mr. 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 making 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 place on the high court a dedicated advocate of unilateral executive power and privilege, of authoritarian policies the Constitution was written precisely to prevent. So more is at stake here than the Nixonizing 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 justified by Mr. Rehnquist. A self-respecting 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. Precedent has by now made it clear that the individual must be competent in the law, judicious of temperament, and of personal probity. Otherwise they don't get by the Senate. Beyond that—a liberal president is entitled to name a conservative candidate.

The Senate hearings have established that both of Mr. Nixon's latest nominations for the court are men of personal probity, judicious temperament, and competence in the law. In those three categories both men are entirely qualified. And so far as Lewis Powell is concerned that is an end of the matter. He will have the approval the Senate.

There is one difference in the Rehnquist case.

His record on civil-rights issues indicates that he is, or has been, sufficiently conservative in civil liberty matters to fit what is popularity known as the "Southern strategy."

His nomination to the court expresses Mr. Nixon's own attitude toward racial matters which is one of going only as fast as the law and the courts require. He is not out in front leading the parade.

Mr. Nixon wants a man of conservative views on such matters on the court. He wants to prove to Southern conservatives his own sincerity on this point. Putting a person with views similar to his own on the court is 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 civil-rights conservative as it is for President Nixon to promote one.

In other words the issue in respect to Mr. Rehnquist is neither personal nor professional. It is purely political. The outcome therefore is bound to be political. It will measure the extent of sentiment in the Senate on civil rights and how many votes the White House can muster in favor of a candidate who would be a welcome addition in the eyes of Southerners who favor going as slow as is legally permissible down the road to equal opportunities for Negroes.

It will also record the number of senators who wish to push ahead as fast as possible toward equal legal, political, and social rights for Negroes—and other minority groups in the United States.

AFL–CIO CONVENTION, NOVEMBER 19, 1971—REHNQUIST RESOLUTION

Political extremism of the right and of the left has no place on the Supreme Court of the United States. It is for that reason that this Convention views the nomination of William H. Rehnquist as an Associate Justice of the Supreme Court as a dangerous departure from the philosophy of a broadly representative, constitutionally sound Court.

We do not believe a President's desire to name Justices with a similar political philosophy to his should extend to a nomination that is a direct rebuff to the rights and liberties of individuals guaranteed by the Constitution and its first 10 amendments.

The President has said that Mr. Rehnquist is a "strict constructionist" of the Constitution. However, his record, his writings, his self-expressed philosophy clearly show he is a strict constructionist of the Constitution prior to the adoption of the Bill of Rights.

Mr. Rehnquist purposely avoided the efforts of members of the Judiciary Committee of the Senate to question his views on such constitutional questions as wiretapping, executive power and civil liberties. These questions must be answered in open session or risk a lack of confidence on the part of the American people in the Court as an equal and independent institution of American society.

The American people are already deeply concerned by the circus atmosphere surrounding the latest Court nominations made by President Nixon. The "leaks" and "counter-leaks," the "lists" and "non-lists" followed by the nomination of one of the Administration's chief apologists hardly reflects the "respect for the Court" of which the President spoke when he announced the nominations.

The Supreme Court is too important, too respected and too necessary to American society for the Senate to now confirm Mr. Rehnquist while the American people ask questions: Is he more loyal to a President than to the Constitution? Will he respect individual liberties more than Executive power?

These are proper questions. These are questions Mr. Rehnquist has not answered.

President Nixon has attempted to pack the Supreme Court with ideological and demagogic reactionaries. The Senate properly rejected his nominations of Clement Haynsworth and G. Harrold Carswell.

It must do so again—this time with the nomination of William Rehnquist. The future of today's citizens, their children, and their grandchildren is too important to permit a man of Mr. Rehnquist's philosophy to exert his influence over the constitutional direction of American society for the remainder of this Century.

Therefore, be it resolved that the Ninth Convention of the AFL–CIO urges the Senate to reject the nomination of William Rehnquist. Men of his philosophy, just as men of the philosophy of the far left, have no place on the Court.

STATEMENT OF EDWARD J. ENNIS, CHAIRMAN ACLU

"The National Board of Directors of the American Civil Liberties Union has decided to depart from the organization's 51 year policy of never endorsing or opposing candidates for public office in order to oppose the nomination for the Supreme Court of William Rehnquist.

"The ACLU prizes its tradition of political non-partnership. We have taken an extraordinary step because of extraordinary circumstances. The President has nominated for the Supreme Court William Rehnquist, a man we know as a dedicated opponent of individual liberties. Under our system of government, the Supreme Court is the nation's ultimate interpreter of the Constitution and protector of individual liberties. We believe that it would be a betrayal of the principles of our Constitution to entrust their interpretation to a person who has devoted himself to undermining those principles.

"We know William Rehnquist as an advocate of dragnet arrests, as an opponent of racial integration, as a champion of executive authority to engage in electronic eavesdropping and political surveillance, as a campaigner for pre-trial incarceration and as an engineer of the Justice Department's programs to abrogate the rights of persons accused of crime. In short, we know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed. We believe that his commitment to state power at the expense of individual liberty makes William Rehnquist unfit to sit on the U.S. Supreme Court."

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, D.C., December 7, 1971.

DEAR SENATOR: As I'm sure you know, the Leadership Conference on Civil Rights opposes the nomination of William H. Rehnquist to the U.S. Supreme Court.

There is no better spokesman for our point of view than Mr. Rehnquist himself. His statements on issues of civil rights and civil liberties, as set forth in the enclosed pamphlet, persuade us that he cannot meet President Nixon's own high standard for a Supreme Court Justice—one whose "sole obligation is to the Constitution and the American people."

We hope you will read the pamphlet. We hope you will agree with us that no one can support Mr. Rehnquist who believes, as we do, that the Supreme Court must remain a strong force for social change and social progress within our democratic system. And when the time comes to vote, we urge you to vote against his confirmation.

Sincerely yours,

ROY WILKINS, *Chairman.*

A RIPON POLICY ANALYSIS, THE WEAK CONSTITUTION OF A "LEGAL GIANT"

The Senate faces severe limitations in resisting a President determined to remake the Supreme Court. The President has the initiative, and as in nuclear strategy, the advantage is with the offense. The President can merely keep submitting names; the Senate must mobilize its somewhat cumbersome machinery and political resources to investigate, disqualify and reject each one. Now, moreover, in the age of MIRV, when the President may launch as many as six bombs at once—or fill the air with chaff and decoys—the role of the defense is further complicated. It is somewhat difficult to muster a struggle against a man like William Rehnquist when lined up behind him are men like Robert Byrd and women like Sylvia Bacon and when the President maintains his nominations have something to do with "respect for the law" or reducing crime.

Still we believe it is just as well that we know what we are doing. Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an alarmist fear: that we are moving into an era of repression, in which the U.S. democracy gives up its most noble enterprise—the maintenance of a free and open society.

A scenario may be envisaged. The Communist party and other political action organizations that can be alleged to advocate revolution would be black-listed and outlawed. Wiretapping and other even more sophisticated modes of individual surveillance would be extended without judicial review. All but the most flagrant acts of discrimination and collusion against blacks would be permitted. The courts would return to the unedifying business of poring over pornography, and arbitrarily incarcerating improvident writers, photographers, and bookstore proprietors. The "third-degree"—extorted confessions and the like—would be effectively authorized. Ever larger numbers of dissenters and other nonconformists who affront the police or marginally violate the law would be imprisoned for long periods. Police brutality and lawlessness, on the other hand, would be condoned. At a time when the government provides an ever larger proportion of available jobs, the firing of dissenters from federal employment would be legitimized. And finally the Executive, in illicit tandem with the judiciary, would reduce the legislative branch to inconsequence on vital matters of war and peace and to irrelevance in the always elastic realm of "national security." And, of course, the real problems of crime and instability in our society would persist.

Such developments are not, of course, inevitable. They will occur only if the Supreme Court abandons its role as ultimate guarantor of the Constitution and the legislative branch refuses to recognize the new responsibilities such a judicial abdication would impose on the Congress.

But the entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited; and most of them are not strongly opposed by the other three Nixon appointees. So even if, in view of the President's determination to transform the Court, it proves tactically necessary for the Senate to accept Rehnquist, we want to register our opinion that he is Nixon's most dangerous nominee yet. Younger and smarter than the others, he will have a longer and more deleterious impact on our political and social order.

There has been much nonsense written in recent weeks on Rehnquist's good character and legal expertise, as if these qualities alone justify confirmation. In fulfilling its Constitutional responsibility for advice and consent, however, the Senate does not stand like the Bar Association's Committee on the Judiciary, as a mere judge of ethical and professional credentials. The Senate must also consider the impact of such potential appointments on the balance between the executive and legislative branches and on the direction of America over the next decades.

POWELL ENDORSED

Applying such standards to the current Supreme Court nominees, the Ripon Society supports, with some reservations, the confirmation of Richmond attorney Lewis Powell, a former President of the ABA. Although his writings do not display a staunch concern with preserving individual liberties, his persistent advocacy of legal services for the poor, his mediating role in Virginia school integration controversies, and his continuing reputation for fairness allay many of our fears. We are further reassured by his recent rejection of Rehnquist's view that the Executive has an inherent right to wiretap without judicial review in cases involving the national security. While Powell might strike the balance between individual liberties and governmental powers at a somewhat different point than we would prefer, he nevertheless recognizes the crucial limits on governmental authority. He is essentially a man of the law rather than a man of the Right.

William Rehnquist, on the other hand, has remorselessly allowed his political prejudices to supersede legal precedent. Unlike Lewis Powell's career of moderate judicial conservatism, Rehnquist's record does not show a consistent and scrupulous application of legal principles; rather it shows a consistent and unabashed manipulation of legal rhetoric in the service of right wing social and political objectives. His voluminous public statements and his private comments of

which we are aware, show him to be a thoroughgoing authoritarian, a nearly absolute believer in executive supremacy over the legislature, and a slack reconstructionist of the constitution.

Rehnquist's authoritarian bent is not tempered by judicial conservatism. Unlike such believers in judicial restraint as the late Justice Felix Frankfurter and former Justice John Marshall Harlan, Rehnquist is a militant judicial activist, who explicitly rejects the doctrine of *stare decisis*. Writing in the Harvard Law Record in 1959 Rehnquist stated: "It is high time that those critical of the present Court recognize with the late Charles Hughes that for 175 years the Constitution has been what the judges say it is. 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 a letter that he wrote in 1959 Rehnquist, then in private practice in Phoenix, made clear the "different interpretation" of the Constitution he had in mind: "a judicial philosophy which consistently applied would reach a conservative result."

The kind of "conservative" result which Rehnquist would seek is diametrically opposed to the American conservative tradition of vigorously opposing the extension of governmental powers.

To justify the Justice Department's policy of encouraging indiscriminate mass arrests of Mayday demonstrators and bystanders (with the charges against them filled in randomly by police who had often never seen the accused or the crime), and of having thousands of patently spurious cases litigated with virtually no convictions, Rehnquist invented after the fact the doctrine of "qualified martial law."

Now even if one believes the Capitol was in direct jeopardy on Mayday, the Rehnquist rationale is legally slovenly. Rehnquist would have us believe that government can commit countless violations and then sanction them by some flip post-facto improvisation.

Rehnquist was also a major strategist in the preparation of the controversial "no knock" and "preventive detention" provisions of the D.C. Crime Bill. He has strongly asserted a governmental right to fire employees, even if covered by civil service, when they question Administration War policies. Furthermore he has maintained that the executive has the right to engage in wiretapping and other electronic surveillance without court supervision as long as it claims a "national security" justification. If we contend that such unaccountable government powers might become a threat to individual liberty and privacy, Rehnquist tells us to rely on the "self restraint" of the Executive—which might be conceivable if we could forget that in recent years the Attorney General's arbiter on such matters was one William Rehnquist.

A REMARKABLE FACT

In only one area in all his career has Rehnquist shown any opposition to the extension of governmental powers. While an attorney in Phoenix he was a vocal and insistent opponent of legislation to outlaw racial discrimination in public accommodations. It is a truly remarkable fact, worthy of contemplation by the Senate, that nowhere in his extensive writings has he displayed a keen concern for any individual liberty except what he quaintly calls the "traditional freedom" to discriminate against blacks.

Rehnquist now says he has reconsidered his attitude toward the public accommodations ordinance of 1964; that is understandable since even Barry Goldwater endorsed it seven years ago and it has worked smoothly, contrary to Rehnquist's lugubrious expectations. Before we rejoice too readily, however, we should note that he has only endorsed the local ordinance, not the Civil Rights Bill of 1964, and that in 1965 and 1967, virtually alone among prominent Arizonans he opposed other civil rights legislation.

It would be easy to compile an equally disturbing record of Rehnquist's views on the role of the Senate in foreign policy. An exponent of what Senator Mathias calls the theory of the Optional Congress, he has seemed eager to eliminate what few powers Congress has managed to retain in this era of executive supremacy in the international realm. Suffice it to say that he has consistently and erroneously maintained that the President has the power under the Constitution to commit U.S. troops to war across national boundaries without seeking Congressional approval, and that possessing this power, the President scarcely needs any others.

In nearly all of his public statements and in a number of private comments, Rehnquist has revealed himself as a brilliant authoritarian ideologue who sees the law or the Constitution as mere instruments for imposing his beliefs on the body politic. It may in fact be questioned whether a man who, like Rehnquist, defines a conservative judicial philosophy as an approach "that consistently applied reaches a conservative [political] result" can be correctly said to have a judicial philosophy at all.

For this reason, the Ripon Society believes that his elevation to the nation's highest court would be a dangerous mistake. If one is to have excessive judicial activism it is far safer to have it at the expense of the executive rather than in concert with an already exorbitant Presidency. This concern is greater than ever today, when the expanding technology of personal surveillance evokes with renewed menace the Orwellian vision of 1984 (when Rehnquist will be 59).

The Senate is especially bound to consider the philosophies of Supreme Court appointees when a President publicly enunciates a policy of choosing nominees largely because of their political leanings. Unlike most other Presidents of the twentieth century, President Nixon has made it clear that the principal qualification for his nominees is concurrence with his Administration's policies, especially in civil liberties. The Senate should exercise close scrutiny over nominees of such a politicized Presidential selection process. And if we really must have extremists on the court, may they be "in the defense of liberty."

DOES WILLIAM REHNQUIST MEET THE HIGH STANDARDS EXPECTED OF THE SUPREME COURT?

Asked what he thought of William A. Rehnquist as a prospective justice for the U.S. Supreme Court, this was the reply of John P. Frank, a noted expert on the Constitution 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 intellectual force for reaction. I do not believe 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 backward 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 police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 per cent in favor."

In spite of this grim estimate and his feeling that "it is a deplorable appointment," Mr. Frank still thought Mr. Rehnquist should be confirmed for the Supreme Court.

He subscribes, apparently, to the current notion that a man's ability as a lawyer and his legal views are two separate things, that it is somehow unfair to inquire into a nominee's personal views on the law when considering him for the Court.

Yet President Nixon and Mr. Rehnquist have both said a nominee's views—his judicial philoshophy—should be part of an inquiry into his fitness for the highest judicial appointment in the land.

When President Nixon announced the Rehnquist nomination on October 21, he said judicial philosophy was one of the major considerations governing his choice. And Mr. Rehnquist, in a Harvard Law Review article he wrote in 1959, urged that the Senate restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him . . ."

We agree with Mr. Nixon and Mr. Rehnquist. For us, the crucial question is this: To what extent would Mr. Rehnquist's philosophy of the law hinder 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"?

I—THE REHNQUIST RECORD ON CIVIL RIGHTS

Mr. Nixon's statement admits no exceptions. So it is fair to ask if Mr. Rehnquist is prepared to assume an obligation to all of the American people and not just to some of them.

What gives that question particular point are the first substantial public expressions of his views on civil rights when he was a lawyer in Phoenix during the 1960s.

PEOPLE AND PRIVATE PROPERTY

In 1964, Phoenix was about to pass a public accommodations law, a local ordinance requiring stores, restaurants and other places of public accommodation to serve all members of the public without regard to race, color, religion or national origin.

It was June 15, about five months after the U.S. House of Representatives had passed, by overwhelming vote, a civil rights law with a public accommodations section similar to the one Phoenix was considering; it was five days after two-thirds of the members of the U.S. Senate had broken a filibuster and signified their readiness to adopt the same provision. 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]." The council went on to pass the ordinance unanimously. Still dissatisfied, Mr. Rehnquist wrote to the local paper. The ordinance, he said, in a letter to the Arizona Republic, "summarily does away with the historic right of the owner of a drug store, lunch counter or theater to choose his own customers.

"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 these minorities a chance to have access to integrated eating places . . ." In his view, it placed "a separate indignity" on the proprietor in order to correct the "indignity" society had placed upon "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."

Asked at the Senate Judiciary Committee 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 readily accepted and I think I have come to realize since, more than I did at

the time, the strong concern that minorities have for the recognition of these rights." Since that "time" was in the wake of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington and the demonstrated readiness of thousands of Negroes to die for equality, one wonders what more was needed to make Mr. Rehnquist aware of a "strong concern."

PEOPLE AND SCHOOLS

In 1967, when Phoenix School Superintendent Seymour sought to desegregate the city's schools, saying "we are and must be concerned with achieving an integrated society," Mr. Rehnquist wrote again to the local paper taking issue with that statement. "We are no more dedicated to an 'integrated' society than we are to a 'segregated' society," he said.

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 them."

It is hard not to hear an echo here of the old Dixiecrat argument that Negroes in the South would have been content with their lot were it not for "outside agitators." Thirteen years after the U.S. Supreme Court had declared racially segregated schools to be unconstitutional Mr. Rehnquist was still arguing 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 asserts he took part in a local campaign of "harassment and intimidation" to keep monorities from the polls.

Four citizens of Arizona have presented affidavits swearing that Rehnquest 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 assert that when one of them, a cripple, remonstrated with him, 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 details of the charges. Further, a fifth 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 the facts.

THE CARSWELL NOMINATION

When the Washington Post in 1970 opposed the nomination of G. Harrold Carswell to the Supreme Court, citing among its reasons an anti-civil rights record that included a speech in favor of white supremacy, serving 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 Carswell's defense.

"Your editorial clearly implies," he wrote, "that to the extent the judge falls short of your civil rights standards he does so because of an anti-Negro, anti-civil rights animus, rather than because of a judicial philosophy which consistently applied would reach a conservative result . . ."

Judge Carswell's decisions in civil rights 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 identification with Carswell's 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 Judge Carswell make credible Arizona State Senator Cloves Campbell's assertion that in 1964 Mr. Rehnquist told him he "was opposed to all civil rights laws."

Certainly Mr. Rehnquist's denial should be tested before the Senate Judiciary Committee with Senator Campbell present.

II—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 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 hostility to 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 a year later for the Bar Association Journal observing in his opening sentence, "Communists, former Communists, and others of like political philosophy scored significant 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. 22, 1971), William V. Shannon had this to say about the rulings Mr. Rehnquist saw as "significant victories" for Communists, "Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case.

"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 major civil liberties issues:

ON GOVERNMENT 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 federal 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 DEMONSTRATORS

In a letter to the Washington Post (Feb. 14, 1970), Mr. Rehnquist railed against "further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators," lumping all three together without discrimination.

And in a speech to the Newark Kiwanis Club he stated, "in the area of public law . . . disobedience cannot be tolerated, whether it be violent or nonviolent disobedience. If force is required to enforce the law, we must not shirk from its employment."

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 martial law"—a most dangerous and repressive doctrine in the hands of the police.

Mr. Rehnquist denied using the phrase in connection with the May Day incidents. 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 to the disadvantage of the accused. He favors pre-trial detention, saying in defense of the D.C. Crime Law, that there is a "social need to detain those persons who pose a serious threat to the public safety. . . ."

He would like to modify the "exclusionary rule" which "now prevents the use against a criminal defendant of evidence which is found to have been obtained in violation of his constitutional rights."

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 proper warrant and without probable cause as no 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 fits 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. "Is the invasion of privacy entailed 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 neutral one—if he feels the invasion is necessary to protect American troops.

This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote the opinion overruling 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 power to do "anything, anywhere that can be done with an army or navy." Yet Mr. Rehnquist, ironically, has in effect advanced that notion in his statements 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 can give additional duties to any agency created by Congress without the express consent of Congress. Now the SACB can designate as subversive any offending organization of citizens.

IV—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, "no nominee may justify withholding from the Committee which must initially pass upon his qualifications and disposition for handling this political power 'in legal form' a frank expression of his political and legal philosophy. The attorney-client privilege is not the attorney's.

"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). His client is the people, and not the President. There is no such privilege, which any nominee was so bold as to claim before, against the Senate's right to know in fulfilling its responsibility to the same people."

2. Asked during the nomination hearings to say what he had done for civil rights, Mr. Rehnquist could think of only two things—he had represented some indigents during the time he practiced law in Phoenix and he had served on the Legal Aid Board there.

But attorneys know that when they are designated by the court to represent indigents they must accept the assignment; there is no voluntary choice involved. As for the Legal Aid Board, Mr. Rehnquist served on it by virtue of his being an ex officio member of the Legal Aid Society where he represented the Bar Association.

3. Mr. Rehnquist has failed to clarify his connections with Arizonians for America. Written interrogatories to Mr. Rehnquist invited a response to the *St. Louis Post Dispatch* article of November 17, 1971, detailing Mr. Rehnquist's connections with this right wing group.

No response was forthcoming beyond the denial of membership and a failure to recollect one meeting; but a denial of membership is not a denial of connections with or participation in an organization and the record demands clarification.

4. Asked about his role in the Administration's attempt to stop publication 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 excerpts.

5. Asked about his role in opposing the desegregation of the Phoenix public schools in 1967, Mr. Rehnquist responded before 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 a means to desegregate the schools, but rather desegregation as a desirable end.

It was on this specific issue that Mr. Rehnquist wrote "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." It was the goal of desegregation he opposed, not just one means (busing) to that end.

WHAT SORT OF JUSTICE WOULD MR. REHNQUIST MAKE?

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. It is the record of an aggressive ideologue 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 1964] should be legitimized on the Supreme Court."

WASHINGTON, D.C.,
November 10, 1971.

Hon. BIRCH BAYH,
Committee on the Judiciary,
Washington, D.C.:

The National Legal Aid and Defender Association, by a vote of its 49th annual delegate assembly, held in Denver, Colorado, on November 6, 1971, opposed the nomination of William 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 the implications that flow therefrom,

Be it resolved that—

1. The National Legal Aid and Defender Association officially opposes the appointment of William Rehnquist as an associate justice of the United States Supreme Court, and

2. 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 NLADA position."

NLADA urges the Senate judiciary committee to oppose Mr. Rehnquist's nomination because of positions taken by the nominee on numerous issues of vital concern to all of our citizens, poor and non-poor alike. Our clients are black, white, yellow, red and brown and they are the poor of this nation. As their advocates, we must insist upon respect for their dignity, whether the issue in which they are involved be civil or 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.

NLADA, as the spokesman for thousands of legal assistance lawyers throughout the country, public defenders and poverty lawyers alike, calls upon each Senator to vote no on William Rehnquist's nomination.

FRANK JONES,
Executive Director,
National Legal Aid and Defender Assn.

WASHINGTON COUNCIL OF LAWYERS,
Washington, D.C., November 9, 1971.

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.

Respectfully yours,

RUSSELL B. STEVENSON,
Interim Chairman.

WASHINGTON COUNCIL OF LAWYERS,
Washington, D.C., November 9, 1971.

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 and throughout the Nation.

Because the Supreme Court exercises a commanding influence in shaping the substance and procedure of law and law practice, the Council is committed to the view that those who sit on that Court reflect the highest qualities of professional competence, dignity and sensitivity to the ways in which the law is implemented. Accordingly, the Council wishes to share its views on William H. Rehnquist with the Senate Judiciary Committee. It is our belief that these views reflect the opinions of a significant and growing segment within the legal profession and will thereby assist the Committee and the entire Senate in the performance of their constitutional duty to advise and, if appropriate, to consent to the President's nominations for the Supreme Court. It is, therefore, respectfully requested that this letter be included within and made a permanent part of the Committee's records of its hearings on the nomination of Mr. Rehnquist.

After a careful review of Mr. Rehnquist's record, both as a practicing lawyer for almost twenty years and as a government official for almost three years, the Council has concluded that it must oppose the confirmation of Mr. Rehnquist as an Associate Justice of the Supreme Court of the United States.

The Council does not base its opposition to Mr. Rehnquist on professional incompetence or on any ethical questions raised by his public behavior.

Instead, the Council opposes Mr. Rehnquist because of his apparently deep-seated and consistent insensitivity to the individual citizen's constitutional rights, particularly those rights embodied in the Bill of Rights and the Fourteenth Amendment. As will be detailed below, at almost every opportunity Mr. Rehnquist has supported limitations, many of them severe, on individual rights secured by the Constitution to the people of the United States. His arguments reflect an apparent desire to attenuate the individual's constitutional safeguards against governmental action. It is our view that Mr. Rehnquist's position would undermine the individual's constitutional rights in most practical applications. The Council believes, in fact, that Mr. Rehnquist's views might, in time, threaten the very purposes which inspired the adoption of the Bill of Rights and the Fourteenth Amendment.

A careful examination of Mr. Rehnquist's record casts grave doubts on the opinion expressed by the President (and popularized by the news media) that Mr. Rehnquist's legal philosophy represents a "strict-constructionist" approach in interpreting constitutional commands.[1] In the Council's opinion, his legal views approach a radical hostility to the preservation of fragile individual liberties. Far from adhering "strictly" to constitu-

[1] In fact, in a statement before the Arizona Judicial Conference, Mr. Rehnquist expressed a directly contrary view:

tional limitations on government action, as those limitations were understood when the Bill of Rights and the Fourteenth Amendment were adopted, Mr. Rehnquist has consistently stood for dilution of their impact. The Council therefore believes that Mr. Rehnquist's views are hostile to the preservation of these limitations they were initially conceived and that such hostility from the Supreme Bench would be particularly harmful at a time when the government penetrates and regulates a significant part of the individual citizen's daily life, when the potential for abuse of governmental powers is so high because of technological advances, and when the individual can look only to the Judicial Branch for vindication of rights whose exercise may frequently offend a majority of his countrymen.

The Council agrees with the views recently expressed by Senator Javits[2] and believes that Mr. Rehnquist's hostility to basic constitutional guaranties to the individual is a proper area of inquiry for the Senate and a proper basis for rejecting his nomination to the Supreme Court. This is more than a question of Mr. Rehnquist's having adopted a legal philosophy which conflicts with that of the Council. It is, rather, a question of whether the Court will continue effectively to fulfill its historic role in American life. The Court is charged with ultimate responsibility to protect and serve the subtle but indispensable values of justice, liberty and equality before the law. Mr. Rehnquist's public record suggests that his appointment will impede the Court's ability to perform that function. The Council therefore respectfully requests that the Senate Judiciary Committee recommend that the Senate not consent to the nomination of Mr. Rehnquist to the Supreme Court of the United States.

The Council respectfully directs the Committee's attention to the attached outline of statements by Mr. Rehnquist which, in substantial part, compel the Council to oppose his confirmation. All the information considered by the Council is contained in public records 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

In support of its views, the Council cites the following positions taken by Mr. Rehnquist:

CIVIL RIGHTS

1. In 1964, Mr. Rehnquist opposed the adoption by the Phoenix City Council of a public accommodations ordinance, saying:

"It is as barren of accomplishment in what it gives to the Negro as in what it takes from the proprietor." Letter to the Editor, The Arizona *Republic*, at 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 'segregated' society." Arizona *Republic*, at 7, col. 1 (Sept. 9, 1967).

GOVERNMENT SURVEILLANCE OF PRIVATE CITIZENS

In 1971, Mr. Rehnquist recommended deemphasis of Constitutional safeguards against governmental electronic snooping, saying:

"I think it quite likely that self-discipline on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering." Statement of Mr. Rehnquist before the Subcommittee on Constitutional Rights, Committee on the Judiciary, United States Senate, 92d Cong., 1st 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 for unconstitutionally-gathered evidence. *Id.* at 7.

(b) He supported abandonment of the rule requiring uniformity of jury verdicts in the Federal courts. *Id.* at 7–8.

(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 1971, during the course of his remarks at the American Bar Association Convention 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 specific search—is hopefully to be found at the *conclusion* of an investigation and ought not to be required as a justification for its *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. *Id.* at 14.

PRESIDENTIAL WAR-MAKING POWERS

In 1970, before the Subcommittee on National Security Policy and Scientific Development of the House Committee on Foreign Affairs, 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.

(c) With respect to this issue, 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,
Chicago, Ill., November 24, 1971.

Hon. BIRCH BAYH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: 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 nominee in part because of his expressed political and social views. As a matter of policy the Council believes that Supreme Court nominees should not be selected or rejected on such grounds provided that the nominee has shown a decent respect for the law and the constitution. We abandon that usual stance here because the President in making his appointments has forsaken it. It is President Nixon who has consistently and openly announced that his nominees were to be selected because of a certain political and social philosophy.

Aided by a quirk of fate which has given him four nominations in less than three years, President Nixon has ignored the precedent of his predecessors of both parties who have nominated men of obvious qualifications and divergent philosophies. Rather he has relentlessly pursued a particular point of view, ignoring qualifications except when forced by the senate or the weight of public indignation. With the nomination of Mr. Rehnquist, we believe the time has come when the senate must cry halt.

In Mr. Rehnquist, the President has found a man who can be counted on as a "hard-liner" on crime, a proponent of over-enhanced governmental and particularly executive power over the individual, and an opponent of any use of the courts as an instrument of responsible social change.

When a particular nominee's public statements demonstrate his embrace of views that pose such grave challenges to traditional American values embodied in the Bill of Rights, the Council feels obligated to state its opposition. Mr. Rehnquist has said the judicial philosophy he prefers is one "which consistently applied would reach a conservative result" (1959 and 1970), N.Y. Times 11/3/71, p. 27; that restoration of the Warren Court's liberal majority would "have the result of . . . further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators" (letter to the *Washington Post*, 1970); that a proposed Phoenix, Arizona, open accommodations ordinance, by depriving businessmen of the right to discriminate, would result in giving up "a measure of our traditional freedom," *Washington Post*, 1970 (retracted, at least in part, before the Judiciary Committee, N.Y. Times 11/4/71, p. 66); that courts should have no role in protecting the individual from government surveillance, N.Y. Times 11/3/71, p. 27; and that "qualified martial law" existed at the time of the Mayday mass arrests in Washington this year, N.Y. Times 11/3/71, p. 27.

Whatever sort of justice Mr. Rehnquist might be, he is unlikely to be the "judicial conservative" Mr. Nixon claims to want—at least as that term has been used to describe men such as Justices Frankfurter and Harlan.

Before the Judiciary Committee, he has been reported as saying that *stare decisis* has less weight where decisions are of recent origin, decided by close votes and not approved in subsequent rulings. N.Y. Times 11/4/71, p. 66. Justice Harlan is probably shuddering at such views.

The Council recognizes that Mr. Rehnquist's career at the bar is not without intellectual competence. Should his nomination be approved, as expected, it is to be hoped his judgments would be free of the unfortunate prejudices he has evidenced thus far.

The fact that such a hope need be articulated is reason enough to oppose the nomination.

ROBERT W. BENNETT,
President,
Chicago Council of Lawyers.

STATEMENT OF NATIONAL CATHOLIC CONFERENCE FOR INTERRACIAL JUSTICE

The board of directors of the National Catholic Conference for Interracial Justice has condemned the Supreme Court nomination of William Rehnquist.

Walter Hubbard, Seattle, Chairman of the Board said, "we believe that a man who open-

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"The constitutional language is sufficiently broad to permit a latitude of judicial interpretation to meet the circumstances and needs of our society at any given time." Arizona Judicial Conference, Tempe, Arizona, at 7 (Dec. 4, 1970).

[2] 117 Cong. Rec. S16601, S16602 (daily ed., Oct. 20, 1971).

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."

Walter Hubbard stated that in the judgement of his board, "William Rehnquist fails to meet one of the most essential qualifications for a Supreme Court justice. "This qualification," said Hubbard is that "a Supreme Court justice should hold in highest priority, the human rights of all Americans, since any or all of them may be affected for decades by the decisions handed down from the Supreme Court of the American people."

"William Rehnquist," said Hubbard "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 Interracial 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 of America. 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 temperment, 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 ideology, group or segment in American society.

3. the nominee should hold in highest priority the human rights of all Americans, since any or all of them may be affected for decades by the decisions handed down from the Supreme Court to the American people.

The Board of Directors of the National Catholic Conference for Interracial Justice will not 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 nation's highest court.

To insure the legal rights of minority Americans requires a Supreme Court Justice to 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 recommendations of the just concluded World 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. BENNETT), 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 be an Associate Justice of the Supreme Court of the United States.

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

STATEMENT BY SENATOR BENNETT

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 skill and expertise he would later demonstrate in his practice of law. His being number one in his class also indicates that his ability was recognized by his instructors. Associate Justice of the Supreme Court Jackson also recognized the abilities of William Rehnquist and selected him to serve as a clerk in his Supreme Court office. This experience served as excellent training and background for the work Rehnquist was later to engage 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 not for his legal qualifications, because they are impeccable, but rather because his philosophy differs from that of some members of this body. Civil Rights leaders paraded before the Senate Judiciary Committee attempting to discredit William Rehnquist because he had not followed their particular philosophy. While I would never question the right of these organizations to oppose any nomination, I think it is significant 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 that would violate the Constitutional rights granted to individuals.

Mr. President, I believe it has been shown on numerous occasions that William Rehnquist is legally 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 as long as they meet the high standards of the Supreme Court. For this reason I believe that President Nixon has selected an outstanding 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 and unfair game is 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 during this 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 from Indiana said the memorandum was "shocking" and that the nominee in the 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 on Wednesday 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 the Justice at his special direction. 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 all of the arguments in support of the "separate but equal" doctrine, as well as those against its constitutionality." Cronson has indicated that he and Rehnquist had previously prepared a memorandum 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

(By Anthony Lewis)

LONDON.—A former colleague of William H. Rehnquist said tonight that in 1952 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, concluding that the doctrine of segregation laid down by the Supreme Court in 1896 should be reaffirmed.

"Both of us," Mr. Cronson said, "personally thought at the time that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

INTERVIEWED BY PHONE

Earlier today, Mr. Cronson, an oil company executive in Europe, sent a cable to Mr. Rehnquist from London about his recollections. He then left for his home in Gstaad, Switzerland, and he was interviewed there by telephone.

"To this day," Mr. Cronson said, "I am not exactly sure what Justice Jackson's views were—and if I were, I would not say. I think this whole business is completely improper. Such memoranda from law clerks to a Supreme Court Justice should never be published."

The Supreme Court considered the school segregation issue in 1952 and 1953 before finally deciding unanimously on May 17, 1954, to overrule the Plessy case and declared racial segregation unconstitutional. Justice Jackson was part of that unanimous Court.

Mr. HRUSKA. Mr. President, I feel I would be derelict in my responsibilities as a Senator if I did not attempt to obtain the arguments on both sides of issues that come before us. Unless one does know both sides to the questions under consideration by the Senate, I feel he cannot vote in an intelligent manner. In all memorandums from my staff I ask that both sides of the issues be presented. I would hope that the same standard would prevail in the offices of my colleagues.

So should the same hold true on the Supreme Court. The President appoints and the Senate confirms only men whom we believe will be fair—and by that term we mean individuals who will listen to both sides of the argument presented to them. It was in pursuit of this goal that Justice Jackson asked to have these memos written. If fairness were the standard being used by the opponents of this nomination all of the memos written to the Justice on this issue would have been published rather than a selected one. Or better yet, none at all. There is no pretense that either memo represented Justice Jackson's views. But he requested both. He spoke for himself in the opinion proper.

This entire incident affirms my feeling that no internal memorandums should be published for they can present only a partial and often very misleading picture of the facts. This is the view Don Cronson holds. It should be noted it was also the view of the late Justice Black, who directed that his memorandums be burned upon his decease. And Mr. Donald Cronson, Mr. Rehnquist's companion law clerk to Justice Jackson, stated:

I think this whole business is improper. Such memoranda from law clerks to a Supreme Court should never be published.

See New York Times article by Anthony Lewis, today's edition.

Fourth, Mr. President, now that Mr. Rehnquist has been forced to reply to the untrue statements made in this body, he is criticized for doing so.

In response to a question from the Senator from Rhode Island (Mr. PASTORE), the Senator from Indiana indicated that he did not believe the statements made in the letter. He further stated:

I think it is fair to ask: Why do we go through Monday, Tuesday, and almost through Wednesday before we received an explanation, an explanation which I think, if anyone would read it carefully, raises questions in my mind. I am dubious about its veracity.

Would the Senator have believed the letter had he received it on Monday? I doubt it since the effect of the letter has been to knock down another of the strawmen raised by the opponents of this nomination. And why, if the nominee was not earnestly trying to reconstruct events of 19 years ago, would he had waited 3 days to reply?

Finally, Mr. Rehnquist has been criticized for discussing his relationship with Mr. Justice Jackson in this letter. Parenthetically, let me say that Mr. Rehnquist is very sensitive to the privacy of his relationship with the Justice as he indicated in his article in U.S. News & World Report in 1957. It must have been very painful for him to have to pierce that veil, even to a very limited extent, to defend himself against the untruths hurled at him from this body. This rightness of his decision and his recollection of the facts has now been testified to by his fellow law clerk, Donald Cronson.

Mr. Justice Jackson needs no defending in this forum. His record as a great Justice and a great defender of civil rights and civil liberties is well known. Mr. Rehnquist's letter only reveals again how careful he was to arm himself with the facts on both sides of an argument before going into conference with his fellow Justices. Mr. Justice Jackson's view as to the rightness of Plessy against Ferguson is clear for all to know. He joined his fellow Justices in unanimously striking down that precedent in 1954 when he cast his vote in Brown against Board of Education. That is the final outcome of all of this tempest; that is the law of the land which this nominee has indicated he supports for its "rightness from the standpoint of fundamental fairness."

Those, Mr. President, are the facts. They point without any detour to a case of gross misinterpretation of the record, the attitudes, the philosophy, and the motives of this nominee. Those who would oppose him, as they have a legitimate right to do, are clutching at the most flimsy pieces of nonevidence and hearsay to build a case. They have failed.

Mr. BELLMON. Mr. President, since the consideration of the Rehnquist appointment began, I have listened with interest to the statements made and read much of the testimony which has been offered. I can understand the misgivings certain members of the Senate have expressed regarding Mr. Rehnquist's political philosophy, but I am mystified to understand the basis for these feelings.

The junior Senator from Oklahoma is not a lawyer. I make no pretense of competing with my more learned colleagues in debating this appointment from the legal viewpoint. However, for the past several months I have had a close working, as well as social, relationship with Mr. Rehnquist. I wish to reassure the other Members, who may not have known him earlier. If I were selecting a lawyer to handle my own affairs, Mr. Rehnquist is one who I would be pleased to entrust with any matter of great concern to me. He seems to possess those desirable traits of intelligence, humility, objectivity, and fairness, that, in sum, amount to judicial temperament.

In reading the objections of the Rehnquist appointment, I have found many charges which simply do not square with the man, as I know him. In our dealings together, I have found Bill Rehnquist to be not only intelligent and well informed, but also, a sensitive, concerned, and compassionate individual. I am thoroughly convinced that, as a member of the highest court in the land, he will continue to display those desirable human qualities which a Justice of our highest court should have.

I have no doubt that Bill Rehnquist can and will view matters which come before him objectively. I feel he will ascertain the facts fully and make decisions based upon a mature and scholarly understanding of the Constitution. I believe his presence on the Supreme Court will add prestige and dignity to that body and that his decisions will advance the cause of justice, under law, in this country. I am proud to call him my friend and to cast my vote for his confirmation.

Mr. STEVENS. Mr. President, I rise in support of the nomination of Mr. William H. Rehnquist to the U.S. Supreme Court. It is my strong belief that Mr. Rehnquist has the intelligence, integrity, legal experience, understanding of the Constitution, and qualities of fairness and impartially which are so important in a nominee to the High Court. My respect for the Court and its vital role in our system of checks and balances would not permit me to vote for a person who does not possess these qualities.

Mr. Rehnquist's legal scholarship and experience are unassailable. After graduating first in his class from Stanford University Law School, where he was elected to the Order of the Coif and was a member of the board of editors of the Law Review, Mr. Rehnquist served as law clerk to Associate Justice Robert H. Jackson of the U.S. Supreme Court. Those who are familiar with our system of legal education and training know that an appointment to a Supreme Court clerkship is one of the most sought after positions available to a graduating law student. Moreover, Justice Jackson, for whom Mr. Rehnquist served from February 1952 until June 1953, is one of the most respected Justices in the history of the Court. I knew Bill Rehnquist personally during this period as I was a young lawyer here in Washington.

From the completion of his clerkship and until his appointment as Assistant Attorney General, Mr. Rehnquist en-

gaged in private practice in Phoenix, Ariz. His outstanding legal ability and achievements are reflected in positions which he held during this period. Thus, he served as president and a member of the board of directors of the Maricopa County Bar Association in Phoenix, as chairman of the Arizona State Bar Continuing Legal Education Committee, as a member of the National Conference of Commissioners of Uniform State Laws, and on the Council of the Administrative Law Section of the American Bar Association.

During the Senate Judiciary Committee's consideration of the Rehnquist nomination, many strong endorsements of his legal scholarship were received. These expressions of support are well documented in the hearing record and committee report, and I will not dwell upon them now, except to mention two which I believe to be of special significance. First, the Honorable Lawrence E. Walsh, chairman of the American Bar Association's Standing Committee on Federal Judiciary, stated in a letter to the Judiciary Committee that:

> The Committee is unanimous in its view that he is qualified for appointment to the Supreme Court. A majority of nine is of the opinion that he is one of the best qualified available and thus meets high standards of professional competence, judicial temperament, and integrity.

Commenting on Mr. Rehnquist's legal abilities, Dean Phil C. Neal of the University of Chicago Law School wrote:

> Rehnquist was a student of mine at Stanford Law School. He was not only the top student in his class, but one of the best students in the school over a number of years.

I have abstracted certain information which is especially revalatory of Mr. Rehnquist's openmindedness and approach to constitutional issues. With respect to the first matter, I would like to quote again from a letter written to the committee by Dean Neal:

> I am confident he is a fair minded and objective man. Any suggestions of racism or prejudice are completely inconsistent with my recollection of him . . . I believe he would be an independent judge and that he would bring to the Court an unusual capacity for understanding and responding to all dimensions of the difficult problems the Supreme Court must confront. In my judgment, his appointment would add great strength to the Court.

In the same vein, U.S. District Judge Walter Craig, former president of the American Bar Association, testified before the committee as follows:

> 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 (and the necessity) of improving their life and their society.

Mr. Rehnquist's regard for individual freedom and the Bill of Rights is best summarized in his own words:

> I think specifically the Bill of Rights was designed to prevent . . . a majority, perhaps an ephemeral majority, from restricting or unduly impinging on the rights of unpopular minorities.

Regarding the procedural protections in the Bill of Rights, he observed last August:

> These procedural guarantees of individual liberty would be regarded by most people as every bit as important to our kind of society as representative institutions are thought to be.

Not only does Mr. Rehnquist recognize the importance of individual rights, he has a keen understanding of the relationship of these rights to society as a whole. In view of the deep concern felt by many Americans that the Supreme Court has lost sight of the proper relationship between individual rights and a free society, I believe that his observations in this area are especially important. Thus, Mr. Rehnquist has stated:

> We all assume that under our philosophy of government, the individual is guaranteed the freedom of sanctity of his person—in short, the "right to be let alone." One aspect of freedom is, of course, freedom from unwarranted official detention or other intrusions on one's physical being. But another aspect of this notion is surely the right to be free from robberies, rapes and other assaults on the person by those not occupying an official position. A government which does not restrain itself from unwarranted official restraints on the persons of its citizens would be a menace to freedom; but a government which does not or cannot take reasonable steps to prevent felonious assaults on the persons of its citizens would be derelict in fulfilling one of the fundamental purposes of which governments are instituted among men. A society as a whole has a right, indeed a duty, to protect all individuals from criminal invasions of the person.

In my opinion, this statement and many others which Mr. Rehnquist has made evidence a responsible approach to the Bill of Rights, which was designed by the Founding Fathers to insure the protection of individual rights within the context of a larger and ever changing society, and is worthy of a nominee to the Supreme Court.

Moreover, I am convinced that Mr. Rehnquist has an understanding and awareness of the needs and aspirations of minority groups. Thus, he stated during the hearings that he has come to realize "the strong concern that minorities have for the recognition of these (civil) rights." In answer to a specific question posed by the Judiciary Committee, he said that he had come "to appreciate the importance of the legal recognition of rights such as this without regard to whether or not that recognition results in a substantial change in customs or practice."

Mr. President, I have known Mr. Rehnquist for many years. During this time, I have been impressed with his character, human warmth, and legal scholarship. As a lawyer, I am fully cognizant of the importance of the Supreme Court in our democratic form of Government and believe that Mr. Rehnquist is eminently qualified to fill the position of Associate Justice and to make an important contribution to the tradition of judicial excellence which has characterized the efforts of many Justices who have served before him.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. 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.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. TAFT). 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.

(The remarks of Mr. JAVITS when he introduced S. 2987 are printed in the morning business section of the RECORD 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, announced 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 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.

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, in agreeing unanimously to reach a vote this afternoon at 5 on the nomination of William Rehnquist, the Senate has taken a step of fairness toward the nominee which I, for one, believe has been lacking in much of the debate by the opponents of Mr. Rehnquist up to now. In these closing moments 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 one occasion already during the current debate my opinion that a part of the discussion had exceeded the bounds of reasonable debate. We have witnessed the critics of Mr. Rehnquist nitpicking at his every utterance 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 even attacked for holding a view of callous disregard for minority rights

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 to always prepare himself 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. Of course, this is exactly what 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 everything Mr. Rehnquist stated or wrote 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 usual and honorable attorney-client relationship and demand that he give his personal opinion of every argument he has made while testifying before Congress relative to the position of 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 has 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. One Senator, for example, who takes this 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 Senator, at a time when a President of his party was in office, complained that the U.S. Constitution had become outmoded and was imposing unnecessary restrictions on the Nation's Chief Executive. I can 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 himself has taken in the recent past.

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 false accusations being thrown up about him. One Senator stated that "a very critically important point" affecting his judgment on this nomination is the nominee's alleged role in the arrest and prosecution of 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 denied that he had ever announced a position that it was proper to use the doctrine of qualified martial law on May Day. Mr. Rehnquist told the committee that, in the only speech he had given on this subject, he had made it quite clear that this doctrine had not been invoked in Washington and that it would not have been justified had it been imposed. The actual text of Mr. Rehnquist's public address on the May Day situation verifies this. Thus, it is open on the public record that what Mr. Rehnquist actually said was that neither "martial law" nor "qualified martial law" was used on 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 Mr. 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 arrest procedures. In fact, at the hearing it was admitted and recognized by both the nominee and by one of the Senators questioning him, the Senator from Massachusetts (Mr. KENNEDY), that the decision to abandon field arrest forms was a decision taken in the field by the Metropolitan Police and was one with which the Justice Department did not have any involvement at all.

Also, Mr. President, I have previously deplored the unfair challenges the opponents of Mr. Rehnquist have made against early views he is alleged to have expressed in the field of public accommodations and school integration. I have explained in detail how Mr. Rehnquist's views have been grossly distorted and how he has currently announced his strong attachment and personal commitment to the protection of individual liberties and equal rights. In addition, on Monday of this week I offered proof on the Senate floor showing that to my personal knowledge the allegations about Mr. Rehnquist having intimidated minority group voters were wrong. And I am very happy to acknowledge at this time that this was not used against the nominee.

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 always on the highest level 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 we are exploring we 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 the years he has practiced 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. I know that I speak for myself and for my senior colleague, Senator FANNIN, when I speak because Senator FANNIN and I were about the first ones to recommend this gentleman for the job.

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

Mr. GOLDWATER. I do not have any time.

Mr. BAYH. Mr. President, I yield myself time, if necessary.

Mr. President, I perhaps may be sensitive to the use of words, but this is not the first time the Senator from Indiana has heard the Senator from Arizona describe certain incidents, or lack thereof, relative to what happened at certain precincts in his home State.

I note here first, that the other evening he said specifically that what was said on the floor of the Senate with reference to certain allegations were untrue.

I note here in a letter to the editor of the Washington Post the other morning that he said:

> The time is long past due that the lie be put to the repeated observations of people who should know better relative to the supposed action of Mr. Rehnquist in preventing a person from voting.
>
> Contrary to what Mr. Mitchell, Senator Bayh, Mr. Rauh and others might contend, this supposed event did not take place as they describe. Mr. Rehnquist has so stated many times and furthermore, Mr. Editor, I was there so I can speak with considerably more authority than any of the supposed experts can. Let's develop the history of this whole situation.

Could the Senator from Arizona point to one instance in which the Senator from Indiana has accused the nominee of voting harassment?

Mr. GOLDWATER. I think I have just complimented the Senator from Indiana when I said that it was gracious on his part that he did not bring it up, and he told me he would not. It appeared in his mimeographed paper when we first opened up. I think it was in paragraph (d).

Mr. BAYH. I want the Senator to read paragraph (d).

Mr. GOLDWATER. I was there.

Mr. BAYH. I want the Senator from Arizona to read paragraph (d). He said he was in Arizona and that there was no voting harassment. The Senator from Indiana looked at the FBI report. I read

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 harassment.

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 voters, tell 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 memorandum related to 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 was not true. Mr. Rehnquist was not involved in any disorders or actions 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——

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 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 to 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 the evidence includes eight affidavits, one from Mr. Rehnquist, in which he said he did not participate personally in voting harassment, and seven 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 the type of fact finding which is needed to uncover which side of this dispute is mistaken. Therefore, each Senator will have to decide for himself what weight—if any—to give either the charges or the blanket denial.

That does not sound not like the allegation which the Senator from Arizona, with all respect, made on three occasions, now. I am sensitive about his stretching what is stated in the record and attributing it to the Senator from Indiana.

Mr. GOLDWATER. We have a saying, "cuidado." 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 and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be prosecuted. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging were highly improper and violative of the spirit of free elections.

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 minority party all my life, I can tell the Senator that I would be the last 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 thing.

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 Senator has already said in the RECORD yesterday 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 voting so as to cause people 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? Does the Senator feel 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. If 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 might not be the word, but he did not like what was 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 seems no matter how I ask the question the answer is the same. He feels I have not been telling the truth. He says on the one hand I have not been telling the truth and then he says I did not make 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 harassment did exist, 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, and not the Republican Party or the Democratic Party or anything else.

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 differ 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 that record which merit discussion. But I am convinced that Mr. Rehnquist's record on civil liberties, in and of itself, disqualifies him from service as an Associate Justice of the Supreme Court.

At a time when the encroaching 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 an excessive 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 he believes in untrammeled executive power gained at the expense of both Congress and the courts. These claims that the nominee favors unchecked executive power can be 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 Assistant Attorney General. Even if one 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 chiefly relied on to support these charges, I would like to discuss positions advocated by Mr. Rehnquist in those areas. I conclude from his statements that far from believing in unconstitutional extensions of executive power in this area, he firmly believes in the full complement of powers given the Congress and the courts by our Constitution.

It has been charged that 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 at the hearings before Senator ERVIN'S subcommittee was whether additional statutory restrictions, beyond those imposed by the 1968 act, should be imposed by Congress. And even on that he noted that 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 remarks:

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. Neir 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 of 1968.

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 personnel shall wiretap only under certain rather strictly defined standards.

The only area in which Mr. Rehnquist advocated use of wiretaps without prior warrant from a magistrate is in the area of national security wiretaps, and that position is fully in accord with the provisions of the 1968 Crime Act 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.

Also in the wiretapping area, it is important to remember that Mr. Rehnquist advised that the so-called inherent executive power argument should be abandoned by the Government in 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 now takes the position that the courts should determine the propriety of such taps under the reasonableness 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 Congress can restrict the use of such personnel by the executive branch at any time it chooses. Moreover, if there is any element of harassment of chililng effect on 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:

I do not conceive it to be any part of the function of the Department of Justice or of any other governmental agencies to surveil or other wise observe people who are simply exercising their First Amendment rights.

. . . the only legitimate use of surveillance [is] was 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 has also been suggested that in the area of the rights of the accused Mr. Rehnquist believes that fewer restraints 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 my neighborhood State of 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 invariably 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 balancing 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 these values stand 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 those remarks that the charges that Mr. Rehnquist is something akin to a "totalitarian" are plain, unvarnished nonsense. No one who knows him could believe the charges and these statements which he made both 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 exercisable and already exercised in the 1968 Crime Act. Moreover, he believes that under our constitutional scheme the courts should and will review the use of investigatory personnel under the fourth amendment and other provisions of the Bill of Rights.

Mr. EAGLETON. Mr. President, we have before us the nomination of William 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 precisely what criteria should be used in evaluating a Supreme Court nominee.

It appears there are two general schools of thought on the appropriate 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 comported substantially and in significant overall measure with the individual Senator's thought and philosophy.[1]

The other approach defines the role of a Senator more narrowly. After a Senator inquires into the "three I's" of the nominee—industry, intelligence, and integrity—he then determines whether the nominee's philosophy is within 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.[2]

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 Supreme Court nominees on vital national issues. However, we should not seek a uniformity of opinion on the Court, and I believe a nominee 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. 28211.)[3]

I am the more assured in this belief because relatively few judicial careers on the Supreme Court have been delineated in advance with any high degree of accuracy, either by a nominee's supporters or by his opponents.

Applying this guideline to Mr. Rehnquist, I find his "three I's"—industry, intelligence, and integrity—to be unquestioned.[4]

His philosophy has been questioned, indeed challenged, by some—the most strenuous challenges coming 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.

Once again, our quest is not an identity or conformity of philosophy between nominee and Senator. Rather, we ask, are his views so patently irregular as to be outside the rationally debatable judicial mainstream?

There are two of Mr. Rehnquist's civil rights statements which are most frequently cited as being so irregular as to be disqualifying.

At page 25 of the Bayh-Hart-Kennedy-Tunney minority report, and again at page 39 of their minority memorandum, reference is made to Mr. Rehnquist's statement "we are no 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 were extracted reads as follows:

Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policy-making bodies who are directly responsible to the electorate, rather than from 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 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.* (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 total context of the letter, it appears that Mr. Rehnquist was espousing recognized constitutional doctrine, namely, that the Constitution prohibits governmentally imposed segregation, but does not require governmentally imposed integration. Or, to put it in yet another way, the Constitution prohibits de jure segregation by governmental act, but it does not prohibit de facto segregation 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."[5] No one can seriously challenge Senator HUMPHREY's fealty to equality of opportunity, yet Mr. Rehnquist's articulation of similar views is labeled "extreme."[6]

The second Rehnquist civil rights statement which has been strenuously challenged was contained in a 1952 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 unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy v. Ferguson* was right and should be re-affirmed. If the Fourteenth Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl's *American Dilemna.*

Mr. Rehnquist has explained the origin of the memorandum in that it was prepared by Rehnquist at the request of 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 for his role as an advocate of 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, recognized as one of the greatest champions of the Bill of Rights, shared views similar to those of Mr. Rehnquist on the question of wiretrapping and eavesdropping.[8]

Personally, I disagree with Mr. Rehnquist's and Justice Black'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 fair and debatable mainstream of American political and legal discourse.

The ideological differences in America today, I am happy to believe, are not so profound as to be unbridgeable by men of intelligence and integrity. But they are large enough so that they can be exacerbated by doctrinaire rigidity and dogmatic disputes in an attempt to prescribe 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 when that process is properly understood and applied. By 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 of a nominee constitutes the most important consideration." (Judiciary Committee hearings on the nomination of Justice Thurgood Marshall, July 1967, 90th Congress, 1st Session, p. 180)

Interestingly, Mr. Rehnquist himself vigorously adheres to this "school" calling for a sweeping analysis of the whole range of a nominee's philosophy. See November 11, 1971 New York Times, page C47, wherein is reprinted a 1959 Harvard Law Record article by Mr. Rehnquist:

". . . Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

". . . It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. 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. The only way for the Senate to learn of these sympathies is to 'inquire of men on their way to the Supreme Court something of their views on these questions'."

[2] 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 not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue; or on a given issue of fundamental importance. We are really interested in knowing whether the nominee has the background, experience, qualifications, temperament, and integrity to handle this most sensitive, important, and responsible job." (Congressional Record, vol. 113, pt. 18, p. 24647.)

[3] *Congressional Record*, vol. 115, pt. 21, p. 28211. See article by Tom Wicker in the November 11, 1971 New York Times, page C47, wherein he wrote:

"On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it 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 conservatives defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partialy 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 nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views."

Wicker reiterated his position in the December 5, 1971 New York Times, page E11, 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 'dangerous business' to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying a man for strongly liberal views or for being a 'new leftist' or a 'neo-isolationist' or some other stereotype?"

Another interesting piece written on the Rehnquist nomination is one by Anthony Lewis in the November 15, 1971 New York Times, page C41, wherein he wrote:

"From this it follows that a President should be allowed ample ideological scope in choosing a Supreme Court justice. There are limits—a racist would be disqualified—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."

Finally, on this point, I have received a letter, dated 11/29/71, from Professor Walter Gellhorn of Columbia University School of Law which eloquently sets forth this point of view. Professor Gellhorn, 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 in an important respect. Some of those who have urged the Senate not to consent to his appointment have done so because they assert he has strong views, contrary to their own, concerning constitutional issues which may come before the Court in future years. This is, in my judgment, an inappropriate basis for objecting to the Rehnquist nomination. If a nominee's acceptability were indeed largely determined by this measurement, the only unchallengeable nominees in times to come would be persons whose past careers had been colorless or, at any rate, had provided small opportunity to consider the Constitution and its application to contemporary problems.

"The proper question to be raised, in my belief, is not whether a nominee will assuredly strive in future instances to reach a result desired by the questioner. It is whether the nominee has the capability and the will to arrive at conclusions in a suitably judicious way, applying intellect and training to the resolution of concrete issues. If a nominee were demonstrably inclined to disregard the Constitution whenever it ran counter to his personnel views, of course he would be ill suited to be a member of the Supreme Court. But if his honest appraisal of constitutional doctrines in the context of particular cases proves to be different from another's, this should not be regarded as determinative of his fitness to be a Justice. The Supreme Court has nine members. If a single wise response could resolve all constitutional controversies, only one judge would suffice. The Court is not weakened by a multiple and diverse membership when all its members are able and willing to consider cases in the light of pertinent law rather than personal predilection.

"What I myself know along with what I have heard elsewhere about Mr. Rehnquist, convinces me that he would not approach judicial tasks as an advocate or as a dogmatist. He would, on the contrary, bring an able mind and a scrupulous judgment to bear on the matters submitted for decision. Policy positions espoused at other times and in non-judicial contexts should not be regarded as foreclosing objectivity in constitutional adjudication. The Senate, when it acts on the pending nomination, should not mistakenly attempt to evaluate a hypothetical future voting record in hypothetical future cases. If Mr. Rehnquist is confirmed, I am confident that he will serve as a dispassionate and conscientious Justice, whether or not I happen to agree with his judgments in every instance.

WALTER GELLHORN".

[4] Even those who oppose Mr. Rehnquist's nomination pay great tribute to his keen intellect and considerable legal skills. In fact, in some strange sort of way his intellect seems to frighten some of his critics. See article by Joseph Kraft in the December 9, 1971 Washington Post, page A23.

[5] In support of the provision of the 1964 Civil Rights Act which prohibited the federal government and federal courts from busing children "in order to achieve such racial balance," Senator Humphrey said the following:

"Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. 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 Kansas:

'Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or 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), 132 F. Supp. 776, 777, the Court said: "The Constitution, in other words, does not require integration. It merely forbids discrimination." '

"In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic Brown case of 1954.

"If school district boundaries are determined without any consideration of race or color, there is no affirmative duty under the Constitution to alter these boundaries so that a particular racial balance in the schools will result. Senators should distinguish between segregation which results from an overt or affirmative act by the State or the local school board and de facto segregation which results from neighborhood residence patterns. This is a matter better left to the courts and to the localities to resolve as each community deems wisest. It is not a consideration of the present bill." (Congressional Record, vol. 110, pt. 10, pp. 13820–13821.)

[6] As to Mr. Rehnquist's "extreme" positions, see article by Robert Bartley in December 6, 1971 Wall Street Journal, page 12, entitled "Rehnquist and Critics: Who's Extreme?"

[7] The Rehnquist 1952-to-Jackson memorandum, analyzed in its totality, makes interesting reading. It sets forth the rationale for the doctrine of judicial abstention and does so in a manner remarkably similar to the position of Judge Learned Hand in his esteemed Oliver Wendell Holmes Lectures at Harvard University in 1958. (See "The Bill of Rights"—The Oliver Wendell Holmes Lectures—by Learned Hand, Harvard University Press—1962.)

In fact, one could label Rehnquist's 1952 memo as a precis of the Hand lectures written six years in advance. Judge Hand and Supreme Court Justices like Holmes, Brandeis, and Frankfurter were exponents of the concept of judicial abstention or restraint. Former Chief Justice Warren and Justice Douglas espouse the concept of judicial activism or intervention. Needless to say, either concept is well within the debatable jurisprudential mainstream.

Plessy vs. Ferguson aside, I take it that Mr. Rehnquist would generally subscribe to the Learned Hand precept that the power of the Supreme Court to annul a duly enacted statute is a very limited one to be "confined to occasions when the statute or order was outside the grant power to the grantee, and should not include a review of how the power has been exercised." (See aforementioned Holmes Lectures at page 66.)

[8] See *Berger v. New York*, 388 U.S. 41, 73 (1966) wherein Justice Black wrote as follows:

"Since eavesdrop evidence obtained by individuals is admissible and helpful I can perceive no permissible reason for courts to reject it, even when obtained surreptitiously by machines, electronics or otherwise. Certainly evidence picked up and recorded on a machine is not less trustworthy. In both perception and retention a machine is more accurate than a human listener. The machine does not have to depend on a defective memory to repeat what was said in its presence for it repeats the very words uttered."

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 this sequence in the RECORD.

In elaboration of footnote (2), the November 11, 1971, Wickler article from the New York Times; the December 5, 1971, Wicker article from the New York Times; the November 15, 1971, Lewis article from the New York Times.

In elaboration of footnote (4), the December 9, 1971 Kraft article in the Washington Post.

In elaboration of footnote (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 against allegations by Joseph Rauh 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 earlier tried to put on the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record on the bench showed a lack of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, G. Harrold Carswell. Judge Carswell was found to have made misstatements 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 Powell, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credential in the Senate; he is 64 years old and his tenure on the Court will be limited by that; he is not expected by most observers to become a powerful leader within 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 skill in the law.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for the principles he espouses. There are those who believe that as the years go along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court—a wing that may already be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term in the White House.

It is no wonder, then, that liberals and libertarians are desperately casting about for means of defeating the Rehnquist nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his strong advocacy of state powers 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.

But the hard fact is that no one has as yet produced any evidence of the kind of ethical tangles that ruined Judge Haynsworth's chances—and before that led to the resignation of Abe Fortas from the Court; nor has anyone been able to identify misstatements like those that sank Judge Carswell, let alone a lack of legal or intellectual qualifications.

It was, in fact, on the matter of Mr. Rehnquist's integrity that Senator Kennedy rebuked Mr. Rauh. The latter had suggested that the nominee had been less than candid in denying ever having been 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 this process. The Senate has the 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 business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it 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 Justice Fortas 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 nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat 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 determined enough and able to put together something like the filibuster that, in 1968, prevented confirmation of Abe Fortas as Chief 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 intent champion of strongly conservative causes. Liberals fear he may become for many years the vigorous leader of a reactionary Court, but their dilemma is that no ethical or professional charges sufficient to warrant Mr. Rehnquist's rejection have so far been proved.

That means that the battle has to be fought, if at all, on the tricky ground of Mr. Rehnquist's political views—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"—that it suggested the existence of a kind of political orthodoxy, would tend to politicize the Court, would punish some people for their ideas while frightening others out of having any and would lead inevitably 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 "dangerous business" to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying 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 upon the Court. Or that among the qualifications it ought to consider is his general political, constitutional and judicial view of things. Judge Carswell, for instance, was judged to be lacking in intellectual and legal competence, a judgment that could be solidly documented.

But can it be shown that Mr. Rehnquist lacks fidelity to the Constitution? No, only that in his view it allows more power to the state and less to the individual than many other Americans believe to be the case.

Can it be shown that Mr. Rehnquist's views are factually in error or substantively wrong? No, it is a matter of interpretation, and it is late in the day for liberals to start 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 decide what the Constitution means, 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 political consequences of a third rejected Nixon nominee, a third defeated conservative, in a Senate dominated by liberal Democrats. Just as the Court itself must 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 must make for himself.

That also is true of the really crucial question about Mr. Rehnquist, which can best be explained by reference to Mr. Powell. Those who know the Virginia lawyer, a former American Bar Association president, concede 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, it is said, is an experienced and fair-minded man of judicial temperament who, in deciding legal and constitutional questions, will put aside any personal or political preferences and prejudices that can't be squared with the law and the facts of a case. He might, for instance, 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 and the Constitution had been violated.

It is to be hoped that that is true—of Mr. Powell and of any nominee, liberal or conservative. Whether or not it is true of William Rehnquist is the vital question about his nomination, and one that each Senator must judge for himself. If Mr. Rehnquist can put his personal views aside when they can't be fairly justified by the law and the facts, then those views should not be the deciding factor; but if any Senator feels that Mr. Rehnquist, or any other nominee, could not so 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.—The problem now troubling American liberals in the nomination of William H. Rehnquist to the Supreme Court was foreseen years ago by Judge Learned Hand. 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 controversies, their known or expected convictions or predilections will, and indeed should, be at least one determinant in their appointment."

Judge Hand was not using the word "political" in its narrow partisan sense. If our judges are to decide controversial national issues in the guise of lawsuits, 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 cheered the Supreme Court on as it advanced values of which they approved. Now a conservative President wants judges with different values. Is it logical to deny him that power, or even democratic? After all, the Presidential appointing power is the only means of seeing that the Court even distantly reflects the changing outlook of the country—as it must.

From this it follows that a President should be allowed ample ideological scope in choosing a Supreme Court justice. There are limits—a racist would be disqualified—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 that 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 tamer 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 1920's and 1930's, when self-willed judges almost destroyed the Supreme Court.

Instead we have what could be called the neo-realist view. It was put with candor in 1958, the same year as Judge Hand's lectures, by Prof. Charles L. Black of Yale:

"We are told that we must be very careful not to favor judicial vigor in supporting civil liberties, because if we do we'll be setting 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 liberties. Would that prevent a Court composed of latter-day McReynoldses and Butlers from following their own views?

Professor Black's rhetorical question expects a negative answer, but it is not so clear that restraint on the part of a liberal Court would have no effect when the pendulum swings. Certainly Brandeis, the greatest intellect who ever sat on the Supreme Court, thought otherwise. Again and again he held back from results that he personally desired because he thought he would encourage other judges to push their views in other cases.

Of course there is no convenient formula to set the limits on the judicial function. Every judge will have his own deep instincts about the values essential to the American system. Brandeis deferred to most legislative judgments, however foolish they appeared, but not when it came to freedom of speech or privacy: He thought they were too fundamental to the whole constitutional scheme.

The justices of the Warren Court did not decide the great cases as they did out of sheer perversity, as some of the sillier critics 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: A narrow majority, without convincing basis in history or expert consensus, read a particular code of police procedure into the general language of the Constitution.

Judicial intervention on 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 districting; 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 since come to rely on the Supreme Court as an essential medium of change in our rigid constitutional structure. What we can ask of the judges is modesty, a quality required not only by man's imperfection 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 intellectual abilities of another judge, once replied: "I never thought of him in that connection." And there lies the nub of the powerful, positive case that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

For years now hardly anybody has thought of the Supreme Court as performing an intellectual function. Mr. Rehnquist, far more than any other recent nominee, has the calibre 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 one daily actions of an energetic population largely unconstrained in its capacity to buy and sell, move and dream, educate and obscure, build and tear down.

Given the nearly universal 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 populist 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 accretions of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populist country.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock that developed between Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court felt obliged—understandably considering that all other avenues seemed closed—to make rulings that might much more appropriately been the work of the President and the Congress.

In the heady atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became result-oriented. In case after case, it was increasingly hard to discover the inner logic of decision-making. Blacks seemed to be favored because they 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 fumbling 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 back in the pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people in trouble, and he has said some hardline—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges towards communism. Some of these comments may be what ambitious juniors are required to say in order to get ahead in the Republican Party of Barry Goldwater and the Justice Department of John Mitchell. Still, I suppose they represent a genuine right-wing conviction.

But Mr. Rehnquist also has a mind of the highest candle-power. His comments in the Judiciary Committee hearings have been unfailingly lucid and discriminating. He has been "hesitant"—a favorite word—when unsure of the fine details of a problem.

Even one of his staunchest opponents, Sen. Edward Kennedy, described him as "a man with a quick, sharp intellect, who quotes Byron, Burke, and Tennyson, who never splits an infinitive, who uses the subjunctive at least once in every speech, who cringes when he sees an English work created from a Greek prefix and a Latin suffix."

Only it happens that the qualities that Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present work. The Court does not now need more liberals, more conservatives, or more middle-of-the-roaders. There are enough of those to assure that nothing drastic is 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 present member. And by uplifting 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 Robert L. Bartley)

WASHINGTON.—The most powerful impression to emerge from the microscopic public analysis of the life and works of Supreme Court nominee William H. 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 poisonous."

Now the critical members on the Senate Judiciary Committee—Sens. Bayh, Hart, Kennedy and Tunney—have filed their minority report setting out the responsible case against the nomination. As Sen. Kennedy's remark suggests, it judiciously avoids the 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 innocent of membership in extremist organizations because his name appears on a list compiled by a little old lady and willed to someone else.

'OUTSIDE THE MAINSTREAM'

The minority report, rather, focuses mostly on Mr. Rehnquist's views on certain issues, and as such is an intriguing document. It volunteers that there is no question about Mr. Rehnquist's qualifications in terms of legal standing or personal integrity. On the widely debated question of whether the Senate should consider a nominee's judicial philosophy, it makes the case that indeed the Senate should.

The minority, of course, argues that on this third test Mr. Rehnquist flunks. It says he "has failed to show a demonstrated commitment to the fundamental human rights of the Bill of Rights, and to the guarantees of equality under the law." While not every detail of a nominee's philosophy ought to bear on his Senate confirmation, it suggests, so extreme a deviation should. At one point the text puts it simply: The nominee "is outside the mainstream of American thought and should not be confirmed."

A fascinating proposition, this. How can someone with legal standing and personal integrity fit to grace the Supreme Court be that far out of the mainstream? What would be the opinions of a man who is such a pillar of the bar and still fails to understand the Bill of Rights?

So it is with no little anticipation that one turns to the issues discussed in the minority report to find just which of Mr. Rehnquist's opinions bar him from the Court service. One expects not merely that he will have debatable opinions on debatable topics. Certainly the four Senators disagree on many things with Lewis F. Powell Jr., the other Supreme Court nominee before the Senate, but they voted to approve him. So in Mr. Rehnquist's case one expects more extreme opinions, those further out of the mainstream on the right, say, than Justice William O. Douglas is on the left.

As sort of a benchmark, recall Justice Douglas' popular book arguing, "We must realize that today's establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution." What right-wing outrages has Mr. Rehnquist uttered, one wonders, that are further from the mainstream than *that*?

As the confirmation hearings started, the best bet for that sort of outrage seemed to lie in the Justice Department position on wiretapping. As the department's chief legal adviser, Mr. Rehnquist must bear no small responsibility for that position, and the department has argued that the Executive Branch has an "inherent right" to wiretap without court order in national security cases. This is tantamount to an assertion that neither Congress nor the courts can control executive wiretapping, and certainly does suggest an insensitivity to the spirit of the Bill of Rights.

Alas for Mr. Rehnquist's critics, though, it turns out that on his advice the Justice Department has dropped the "inherent right" argument in current briefs before the Supreme Court. It now merely argues that in the particular instances of the case, the tap in question was not an "unreasonable" search barred by the Fourth Amendment. He says that the effect of the change is "to recognize that the courts would decide whether or not this practice amounted to an unreasonable search."

Mr. Rehnquist declined to give his personal views, as opposed to the Justice Department position, but he did defend the department's current arguments on the grounds that there are substantial legal questions unresolved, and the Executive is obligated to make its side of the case. "Five preceding administrations have all taken the position that the national security type of surveillance is permissible . . . one Justice of the Supreme Court has expressed the view that the power does exist, two have expressed the view that it does not exist . . . one has expressed the view that it is an open question . . . 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 argument is about wiretapping not of foreign agents but of domestic radicals. The change in the department's position is "more cosmetic than real," they argued, because it is still defending wiretapping rules that would not "provide an adequate restraining effect on the Executive Branch, an adequate deterrent to protect the right of privacy."

For those who may find this particular dispute a matter not of extremist opinions but of reasonable men differing, the minority also delves into Mr. Rehnquist's widely quoted opinion on government surveillance of individuals, that is, not wiretapping but the recording of their activities in public places. In warning against overly restricting such surveillance, he once said, "I think it quite likely that 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, and that the remark must be understood in that context. In colloquy at the time, he conceded that widespread surveillance should be "condemned," and that an individual might already have legal recourse against a government tail. But in considering the argument that surveillance is unconstitutional because it has a "chilling effect" on freedom of expression, he said any such effect is a question not of constitutional law but of fact. And, "those activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least one or two occasions to, you know, exercise their First Amendment rights, to protest the war policies of the President . . ."

The minority report argues that even if 250,000 appeared, others may have been deterred by surveillance. It agrees that the committee's majority report correctly describes Mr. Rehnquist's attitude: "Information-gathering activity may raise first amendment questions if it is proven that citizens are * * * minority argues that this is precisely the problem, "the difficulty of providing a specific chilling effect is obvious, and the notion that a First Amendment question isn't even *raised* until it is 'proven that citizens are *actually* deterred from speaking out' (emphasis in original) is alarming."

But if Mr. Rehnquist's opinions here are outrageously extreme, it would seem, so are the opinions of the majority of the Senate Judiciary Committee. Similarly if his defense of the constitutionality of such laws as "no-knock" raids and "preventive detention" in the District of Columbia are out of the mainstream, the mainstream does not include the majority of both houses of Congress. So what mostly remains is the question of Mr. Rehnquist's attitudes on the racial issue.

The minority report does not make too much of allegations that Mr. Rehnquist harassed black voters when 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 opponents have come up with affidavits charging he was personally involved in harassment, and his supporters have come up with a defense of his challenging activities and attitude by a sometime counterpart on the Phoenix Democratic challenging team. The minority report says, "Each Senator will have to decide for himself what weight—if any—to give etiher the charges or the blanket denial."

On the nominee's general racial attitudes, the majority record also came up with a letter from the principal of the elementary school Mr. Rehnquist's children attended 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 suburban, and predominantly middle socio-economic, school districts. He wanted his children to have experience and associations with children from minority groups, as well as with the different socio-economic groups."

The minority report argues that "Mr. Rehnquist's record fails to demonstrate any strong affirmative commitment to civil rights, to equal justice for all citizens, let alone a level of commitment which would rebut the strong evidence of insensitivity to such rights." The evidence the report discusses at greatest length is a letter Mr. Rehnquist wrote to The Arizona Republic in 1967, responding to remarks on school integration by Phoenix School Superintendent Howard Seymour.

The minority report says, "The truly alarming aspect of the 1967 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 been neutral as between integration and segregation; it stands squarely in favor of the former. And if Mr. Rehnquist does not agree, he is outside the mainstream of American thought and should not be confirmed."

A FREE SOCIETY

The statement in the original letter that must be located 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 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 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 he believes that at this moment the scales are not tipped in such a way that dissent is "chilled." On wiretapping he believes the government side of the national security question deserves its day in court. These opinions, the minority report suggests, are so outrageous the nominee should be defeated.

As the Senate debates the nomination, it seems, it will have to decide more than whether it's proper to weigh a nominee's philosophy. It also needs to weigh whether words like "extreme" and "out of the mainstream" better describe Mr. Rehnquist's philosophy, or the position his critics have been forced to take to oppose him.

A RANDOM THOUGHT ON THE SEGREGATION CASES

One-hundred fifty years ago this court held that it was the ultimate judge of the restrictions which the Constitution imposed on the various branches of the national and state government. Marbury vs Madison. This was presumably on the basis that there are standards to be applied other than the personal predilections of the justices.

As applied to questions of interstate or state-federal relations, as well as to interdepartmental disputes within the federal government, this doctrine of judicial review has worked well. Where theoretically coordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is because these problems involve much less 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, deals with individual rights, particularly in the first 10 and the 14th Amendments. But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. Fletcher vs Peck, in 1810, represented an attempt by Chief Justice Marshall to extend the protection of the contract clause to infant business. Scott vs Sanford was the result of Taney's effort to protect slaveholders from legislative interference.

After the Civil War, business interest 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, the high-water mark of the trend in protecting corporations against legislative influence was probably Lochner vs N.Y. To the majority opinion in that case, Holmes replied that the 14th Amendment did not enact Herbert Spencer's social statics. Other cases coming later in a similar vein were Adkins vs Children's Hospital, Hammer vs Dagenhart, Tyson vs Banton, Ribnik vs McBride. But eventually the court called a halt to this reading of its own economic views into the Constitution. Apparently it recognized that where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases.

To the argument made by Thurgood (Marshall), not John Marshall, that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present court is unable to profit by this example, it must be prepared to see its word fade in time, too, as embodying only the sentiments of a transient majority of nine men.

In these cases now before the court, the court is, as Davis suggested, being asked to read its own sociological views into the Constitution. Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the court of the moral wrongness of the treatment 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 any conviction. If this Court, because its members individually are "liberal" and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects. To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy vs. Ferguson* was right and should be re-affirmed. If the 14th Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl's *American Dilemma*.

Mr. WILLIAMS. Mr. President, I would like at this time to announce to the Senate that I shall cast my vote against the nomination of William Rehnquist to be

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 persisitent insensitivity to the individual 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. And 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—values which I feel are an 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 concept that every individual should be able to live in our society with the assurance that he will be protected from unwarranted intrusions by the Government, and that every individual should be equal under the law. This was the rationale behind the adoption of the first 10 amendments to the U.S. 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 preserve.

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 disassociate 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 the United States reaffirmed 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 Phoenix, Ariz., public accommodations ordinance. Only 5 years ago, Mr. Rehnquist worked to delete key provisions of a model state antidiscrimination act which would have permitted employers to adopt voluntary hiring plans for minorities who had been the victims of past discrimination and which would have forbidden blockbusting techniques in the sale of housing to minorities. Only 4 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 previously held views in these matters. In response to intensive questioning by members of the Judiciary Committee he consistently stated that while the question of "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 not so repugnant to him that he would feel compelled to resign his position, because of this advocacy. These were views which, for example, condoned the abandonment of due process arrest procedures during May Day demonstrations in Washington, which justified the extention of the Executive power to conduct wiretaps without judicial review whenever 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 individual 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, in my view, must be an integral part of a nominee's attitude toward fundamental liberties inherent in the structure of American Government.

Any man who can 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 public 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 Mr. William H. Rehnquist to be an Associate Justice of the U.S. 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. Bill Rehnquist was born in Milwaukee, Wis. in 1924, and grew up in the nearby community of Shorewood. After graduation from high school, he enlisted in the U.S. Army where he reached 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." In 1950, 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 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 a member of the high 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, a position he held until June 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. He also served as chairman of the Arizona State Bar Continuing Legal Education Committee, and from 1963 until 1969 was a member of the National Conference of Commissioners of Uniform State Laws. In short, both academically and professionally Mr. Rehnquist's career and contributions to the practice of law were at all times of the highest order and 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 whisper and innuendo. There have been intimations that he was not sensitive enough on one issue or another, that he was somehow against our American liberties. No substantiation of these charges has been provided, no completely unrebutted 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 dismissing 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 not 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 briefings 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?
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> Based on my experience with him my own answer is in the affirmative. . . . I am confident that his votes will be based on the merits of the cases, that his opinions will illuminate the issues, and he will make a constructive contribution to the on-going 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 these 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. I trust that he will help restore a balance to the Court as it is considering the rights of society when also considering the rights of the accused. I intend to vote for confirmation, and I urge my colleagues to do likewise.

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 majority report of the Senate Judiciary Committee well meets the points raised in opposition to his appointment. I understand the concern which opponents to the nomination have expressed, but I believe they have carried their search for evidence to substantiate their arguments to such extremes that practically no nominee could measure up to their satisfaction unless he either had never participated in public life or fit precisely with their own mold of philosophy. This cannot be the test for confirmation by the Senate.

Mr. STEVENSON. Mr. President, the Constitution gives the President the power to "nominate and by and with the advice and consent of the Senate—appoint" the members of the Supreme Court. That language reflects a compromise between those framers of the Constitution who held that the President should have the power to appoint members of the Court and those who believed that power should be left to the Senate. It clearly indicates an active role by the Senate, a role acted out in our history and supported by the most eminent authorities on the Constitution. I find little dispute over the proposition that the Senate should exercise its active role by inquiring into the judicial and political philosophies of nominees to the Court. After all, the Court acts not only as the arbiter of private disputes and individual rights under the Constitution and the laws of the Congress, but also as the arbiter of conflicting claims to power by the Congress and the executive branch of the Federal Government. Mr. Nixon has manifested his right to make the philosophy of nominees an issue. The Senate has that right, too.

However plain the right may be, its exercise is not easy for either the Executive or 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 the 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 them seriously. 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 Mr. Rehnquist's testimony and speeches. I have consulted the opinions of many who know and have worked with Mr. Rehnquist, and I have talked with him myself.

It would not 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 assess his attitudes 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 political philosophy of Mr. Rehnquist. Charges that he interfered with blacks exercising their franchise in 1964 are disproved, 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 indisposition to prejudge issues likely to arise before the Supreme Court has, however understandably, made the inquiry still 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 tends to ignore.

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 Phoenix. But he, like many others, has changed his views since then. Twenty years ago he wrote the now famous memorandum to Justice Jackson supporting Plessy against Ferguson. 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 1969 speech were carefully defined as a small minority which cared nothing for our system of government. He carefully excepted the civil disobedience of a Thoreau in a self-governing society and the civil disobedience of a Gandhi in an autocratic society from his general condemnations 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 justify 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 opponents concede. As in most cases, he adheres to a firm notion of judicial restraint and invites legislative protection, 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 advocate for the Executive. Even so, there is little evidence to sustain the charges. I cannot quarrel with his statement that it would invade the powers of the Commander in Chief for Congress to forbid an assault on Hamburger Hill.

Mr. Rehnquist never defended blockbusting; he did in 1966 before the Uniform State Law Commissioners wrongly support 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 that society is now protected from dangerous individuals before trial by excessive bail requirements. He argues that preventive detention will protect society at the same time it affords the accused more protection than the constitutional prohibition against excessive bail does now.

The temper of the times and the incompleteness of the evidence make it hard to judge the man—far harder for the public at this point than for a Senator. We in the Senate have heard the debate and the evidence. Senator BAYH wisely sought more debate, but failed against the opposition of the Rehnquist supporters. The public hears the accusations and, too seldom, the defenses. Public attention focuses upon the debate at about the time Mr. Rehnquist is effectively deprived of a chance to defend himself.

The history of attempts in the Senate and by the President to judge men of undoubted character and intellect by philosophical tests casts further doubt upon their efficacy. Justice Warren surprised his sponsor. The Senate was wrong to reject Judge Parker in 1930. None guessed that Felix Frankfurter, the political liberal, would become the judicial conservative on the Court.

Mr. Rehnquist may be an "extreme conservative," but he is not an extremist. I find nothing in the record to indicate that he would bring to the Court his past role as an advocate or political activist. The evidence points the other way. He believes in judicial restraint. And I cannot fault him for that any more than I could Justice Frankfurter or Justice Jackson—both of whom he professes to admire.

I claim no divine insights to the character 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's philosophical views are found 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 an inquiring and reflective mind to the Court and that

before him logic, the facts and the Constitution would prevail. I believe that he reveres 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 which, as much as any 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 with character and intellect, 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 Carswell were rejected; so were others whose nominations were apparently contemplated but never transmitted to the Senate; namely, Mrs. Lillie and Mr. Friday. Our 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 painfully evident by his word and deed. His future nominees like those in the past will be judicial and political conservatives. Their philosophies may be more cautiously expressed, but they neither have been, nor will be, markedly 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.

Each case must be 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 their 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 broad 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 has reaffirmed his support for Brown against Board of Education. He condemned the excessive use of force at Kent State. With very few exceptions his teachers and the individuals who have worked with him and 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 a county legal aid program.

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 Congress and not 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 the expansion of human rights. We may be creatures of that recent experience. The future could be different. The Congress could be stirred by an awakened social conscience in the land and a 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 nonintervention. 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, almost all of it opposed to Mr. Rehnquist. But I must decide in favor of Mr. Rehnquist, 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 approach to the issues 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. McGOVERN. Mr. President, 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 underway 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 a 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 problems. In any event, 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 poverty, of crushing taxation 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 Justices now on 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 and two of them were instrumental in almost wrecking Franklin Roosevelt's New Deal.

What kind of man or woman, then, should be appointed at this critical juncture in our history? Mr. Nixon has made no secret of his intention to shape the Supreme Court to his heart's desire for the next 20 years. His desire, of course, is so-called strict construction of 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 infringe the fundamental freedoms of the people. But, Mr. Nixon and Mr. Mitchell use strict construction in exactly the opposite sense. They use it to mean that the people's freedoms should be narrowly construed so that the Government will have the power to infringe on what have been thought to be fundamental liberties of individuals. Thus, Mr. Nixon and Mr. Mitchell want Justices who will approve electronic bugging of citizens without court orders, who will stop the press from revealing governmental duplicity, who will let Government 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 ills suffered by 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 and foreign affairs. In William Rehnquist they have apparently found just such a Justice.

Mr. Nixon already has a Supreme Court which largely agrees with his inverted 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 Nixon appointees presently serving, 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 six Justices will be on Mr. Nixon's side of strict construction. And if the health of two other of the presently sitting Justices does not hold out, Mr. Nixon may be able to count eight Justices for his view of the Constitution.

It seems to me, therefore, that the time has come once again to speak of balance on the High Court. When Mr. Nixon was running for President 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 Justices. But now the President is sending up trial balloons which clearly indicate that, rather than trying to achieve balance on the Court, he may try to pack the Court for the next generation with men of one persuasion. He may try to tie the hands of a whole generation until 1990 or 1995 by nominating men who hold to the ideas he holds in 1971.

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 enormous 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 1930's Court knocked down efforts to get this country out of the depression and give 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, for those who 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 highly important that the nominees not 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 or the downtrodden or those of a different race. Mr. Nixon should nominate people who will bring balance to the Court rather than packing it with those of a 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 presenting his nomination. Senators will recall that the President spoke of "judicial philosophy" as a major consideration in putting forward Mr. Powell and Mr. Rehnquist. The President said:

> By "judicial philosophy" I do not mean agreeing with the President on every issue. It would be a total repudiation of our constitutional system if judges on the Supreme Court, or any other Federal Court, for that matter, were like puppets on a string pulled by the President who appointed them." And later: "As far as judicial philosophy is concerned, it is my belief that it is the duty of a judge to interpret the Constitution 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—the President can launch an invasion without so much as a glance toward Capitol Hill. Under the same doctrine Mr. Nixon could invade China tomorrow, and the Soviet Union the day after.

Mr. Nixon may see such thinking as an "exceptional" qualification for the Supreme Court. I do not.

Mr. Rehnquist has been equally forthcoming on the right 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 which has rights—to snoop and spy on its own citizens unhampered by inconvenient constitutional limits. 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 that the poor, uninformed accused must 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 there is scarce room for doubt 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. Nixon 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 President's lawyer'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, many whose 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 I have 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 inspiring respect 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 American 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 or of his most recent trial balloons. 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 has I. F. Stone 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 seek to monitor 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 fact that Mr. Stone has seen fit to discontinue this particular facet of his work. But it does make his contribution to our present debate all the more appropriate. I ask unanimous consent that I. F. Stone's Bi-Weekly, November 29, 1971, entitled, "What Rehnquist Saw as a Black Day in the Court," be printed in the RECORD.

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

[From I. F. Stone's Bi-Weekly, Nov. 29, 1971]

WHAT REHNQUIST SAW AS A BLACK DAY IN THE COURT

By the standards of civil 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 it was the worst. An examination of the decisions the Court handed down that day indicates the kind of "conservatism" he would bring to the Court. One of his attacks on the Warren Court was an article he wrote for the *American Bar Association Journal* (44ABAJ229) in 1958. It began "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 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 other two. He must certainly be 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 affidavit of non-membership in the Birch Society distracted 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. Only one of them dealt with Communists at all. That was the Yates decision (354 U.S. 298) where Mr. Justice Harlan reversed the conviction of the California Communist leaders 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 deathblow to the Smith Act, our first peacetime sedition statute since the Alien and Sedition laws of John Adams. The other decision by Harlan was a landmark case in the field of loyalty and security. It ended (354 U.S. 123) the long and shameful harassment of John Stewart Service inspired by the China lobby, and it ordered his restoration to the State Department.

Two other decisions that day were also setbacks to the witch hunt of the 50s. *Watkins v. U.S.* (354 US 295), which Rauh argued for the defense, was the first major setback to the Un-American Activities Committee. The Court reversed the contempt conviction

of an Auto Workers' official. Warren (with Harlan and Frankfurter) held that Congress had no power of "exposure for exposure's sake." The fourth case, *Sweezy v. New Hampshire* (354 US 239) was a victory for academic freedom against a State witch hunt. Warren and the majority ruled as they did in Watkins but Harlan and Frankfurter took a stronger 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 NO. 1 TARGET

Rehnquist's twin passions in his attacks of the late 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 Record* of October 8, 1959 urging the Senate to restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." Less attention has been given the animus he displayed in that article against the historic Brown decision for school integration. Rehnquist protested that in confirming Mr. Justice Whittaker, the Senate had failed to inquire what he 'thought about the Supreme Court and segregation or about the Supreme Court and Communism."

As recently as Feb. 14, 1970 Rehnquist defended Carswell's anti-integration record and sneered in a letter to the *Washington Post* that it was attempting to set up "a rather detailed catechism of civil rights decisions" as "the equivalent of subscription to the Nicene creed for the early Christians." But he wanted a catechism-in-reverse to make sure that nominees were hostile to school integration.

It is ironic that Rehnquist, who argued little more than a decade ago for the fullest inquiry into the political opinions of Court nominees, should have resisted inquiry into his own in the hearings on his nomination. He declined to give his opinion on the constitutionality of the Mansfield amendment, on the power of Congress to cut off funds for war, on the circumstances under which newspapers may be subjected to prior restraint, i.e. censorship, on whether he thought individual freedoms more important than property rights, on what constitutes reasonable search and seizure, on what bail is excessive, on what school boards should do instead of busing when taxes cannot be increased to provide quality education.

At times, as on wire-tapping, preventive detention, no-knock police entry, FBI surveillance of demonstrations, bugging, and the equal 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 asserted, "The attorney-client privilege is not the attorney's. It is for the protection of, and belongs to, the client." They argued furthermore that Rehnquist's client as a Justice Department official was "the people and not the President." They said no nominee before had ever made such a claim "against the Senate's right to know." Certainly Rehnquist never advocated any such doctrine when he wanted to block or reverse the liberal rulings of the Warren court by stricter 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. McGOVERN. 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. His is a record of contempt toward the very heart 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 freedom against the encroachments of Government, Mr. Rehnquist has consistently sought to narrow that freedom and increase those encroachments to the point where this Government would have a free hand to suppress its people. And the dismal Rehnquist record dates not from the start of his involvement in this administration, but from the beginning of his legal career.

In 1957 Mr. Rehnquist denounced 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 the claims of Communists 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 Decisions of 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. That undoubtedly squares with his notion, expressed before the historic decision in Brown against Board of Education that the Constitution, and the American people, value property more than they do people. His views in that instance were reversed by a unanimous Supreme Court.

Later Mr. Rehnquist attacked the Court because it saw fit to permit applicants for the bar to take examinations despite the political beliefs they held. What is more instructive than the denunciation is the manner in which this nominee saw fit to make it. He had to attack Mr. Justice Black for having warmhearted aberrations which became constitutional transgressions when embodied in the decision. He further accused Mr. Justice Black of 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 members.

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 his position on Mr. Justice Black, 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," 92d Congress, first session, March 9, 1971 (unprinted)—he is equally of the view that the Government has the right to maintain surveillance on its citizens almost without limitation.

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 employees. Thus, on the theory that the balance between the right of a public employee to speak and the effective operation of government must be weighed in favor of the latter, he seems to miss the point that, in a 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 employees, let alone the American people, but that fear hardly justifies destroying the rights of our public employees.

No incident 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's lawyer could be the architects of a policy deliberately designed to violate the rights of innocent citizens on a mass basis, is clear warning of what 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 signpost on the wall that Mr. Rehnquist views order and property as far more important in life than individual dignity. And let nobody doubt that hundreds of innocent citizens were arrested in dragnet fashion on May Day. For the government of the District of Columbia has dismissed hundreds of cases because 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 deserves so much 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 and following his record through his hostility to passing public accommodations laws just a few years ago, com-

bined with an understanding of his views on civil liberties can doubt for a moment that Mr. Rehnquist's lack of regard for essential first freedoms is compounded if an individual's skin happens to be some other color than white.

While this nominee stands ever ready to invest the power and resources of Government in the fight to keep people and groups with unpopular views under surveillance, he would have the courts and the Congress stay out of the fight to insure a better life for those less fortunate in this society. That his overriding love of property poisons his ability to be a fair man is no more dramatically shown than in his denunciation in June 1964, of the Phoenix public accommodation suggestion. He opposed that ordinance on the ground that it told you who could come on your property—not, mind you, ones private home, but rather a movie theater, a public stadium, a restaurant, a hotel. That he could hold such views so recently is not surprising because it confirms his devotion to property first enunciated over the school desegregation cases. And no one ought to be fooled that he is essentially less hostile today to the rights of our black citizens. For each of us ought to remember that the view he holds of civil liberties and the rights of individuals was at least partly embodied in the District of Columbia no-knock laws directed against a community with a population of 70 percent black. Moreover, the fight for freedom by our black citizens was in full force in the early part of the 1960's. Many of us were actively seeking new laws—including public accommodations—at the same time that Mr. Rehnquist chose to stand opposed. He cannot claim naivete, he cannot claim lack of knowledge, and I do not think we would try to do so. And in 1966, he showed hostility toward national antidiscrimination laws, including in the area of employment, as a representative to the national Conference of Commissioners on Uniform State Laws. If these efforts were not sufficient to convince people where Mr. Rehnquist stood on civil rights, in 1967 the nominee had the audacity to assert that, 13 years after Brown against Board of Education and 4 years after this Congress passed the most far-reaching civil rights bill in our history, that "we are no more dedicated to an integrated society than we are to a segregated society." Such a statement so obviously places Mr. Rehnquist outside the mainstream of our thought, so outside the expressed law of the land, that he cannot be entrusted with the hallowed duty of enforcing that very law. His defense of Mr. Nixon's nomination of Judge Carswell on the ground that Carswell's hostility to civil rights was borne not of antiblack or anticivil rights animus, but of constitutional conservatism, is a portent of what we can expect from Mr. Rehnquist. Everything in his record, every major public issue in which he has been involved, in and out of government, has been on the side of those who would ignore the law, who would obfuscate, hinder, delay and who would seek to overturn and destroy the hard earned judicial successes of our minorities. That is not the record of a man who can be trusted on the highest court of the land.

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 EXAMINATION OF MR. REHNQUIST'S CIVIL LIBERTIES RECORD

Your editorial "The Senate, the Court and the Nominee—II," which appeared on Sunday, Nov. 28, should be read by every member of the United States Senate. It is hard to believe that any true supporter of civil liberties could vote for the Rehnquist nomination to the court, after considering the points that you discussed.

Senator Fannin's "rebuttal" (Letter, Dec. 2) only reinforces the Post editorial. By quoting banal generalities, Senator Fannin concedes that the specifics of Mr. Rehnquist's anti-Bill of Rights views cannot stand the light of day. For example, Senator Fannin quotes a Rehnquist statement favoring a free press, but doesn't mention his efforts to pressure The Washington Post not to print the Pentagon Papers. Senator Fannin quotes Mr. Rehnquist in favor of the Fourth Amendment, but does not mention his position that wiretapping for "domestic subversion" without even a court order is a reasonable and legal search and seizure. 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 is 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 such that no thoughtful black person 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 reach agreement. That is the right to vote. Thus, because of his personal and organizational involvement in denying Negroes the right to vote in Arizona, Mr. Rehnquist is out of step even with 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 when unconscionable 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 voters. Neither the White House nor 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 mention that Mr. Rehnquist was personally trying to prevent anyone from voting. If these reports by the FBI are so exculpatory, why do Senator Eastland and the Department of Justice ask us to take their word for what is in these documents? Surely, the investigation of complaints of voting discrimination can stand public scrutiny. As long as these reports are not made public, there is a strong suspicion that a full revelation of what these reports contain would show 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 on voting is very troublesome. It will be remembered that in 1964 the Congress passed a law prohibiting the giving of oral literacy tests, unless the Attorney General gave a special exemption. Even the Rehnquist supporters admit that there were extensive efforts in Arizona to give so-called tests to Negro voters by asking them to read or recite parts of the United States Constitution. This campaign was so well organized, so widespread and so obstructive that one observer of what was going on said, "It is a wonder someone didn't get killed." Mr. Rehnquist's role in this campaign has been given various descriptions. Sometimes he is pictured as the benign lawyer who was opposed to what was happening. Sometimes he is cast in the part of a relief man who dropped in to the polling places to give others a rest period. One report credited him with being in charge of "ballot security." Whatever 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 public has a right to know just what Mr. Rehnquist was doing. Did he get the program started? Did he advise the troops that trying to make would-be voters pass oral literacy tests was illegal? Did he sanction the sending of letters warning people that they might get arrested for voting? These and many other questions 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 by Mr. Rehnquist one can only conclude that there is something ugly and possibly shocking that is being concealed; something, so enormously 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 more. It is difficult for a black man to be optimistic on that point. It must be remembered that Judge Haynsworth also was said to have undergone constructive changes in his civil rights viewpoint. Yet, he wrote the opinion in *Tillman* v. *Wheaton-Haven Recreation Association*, decided on Oct. 27, 1971, which held that neither the Civil Rights Act of 1866 nor the Civil Rights Act of 1964 gave relief to Negroes who were denied use of a swimming pool. It is noteworthy that Judge Butzner in his dissent said that the Haynsworth decision was a "marked departure from authoritative precedent." Judge Carswell was 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 other two nominees who were rejected. Sooner or later, the same old Rehnquist, who opposed public accommodations law, will rise and attempt to block progress in civil rights.

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 in this matter. The Rehnquist 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

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 impending 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 subsequent record or actions 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, whether this is the type of opinion we would inflict on a generation of Court decisions: I ask unanimous consent that Mr. Rehnquist's memorandum, "A Random Thought on the School 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 was the ultimate judge of the restrictions which the Constitution imposed on the various branches of the national and state government. *Marbury v. Madison*. This was presumably on the basis that there are standards to be applied other than the personal predilections of the Justices.

As applied to questions of inter-state or state-federal relations, as well as to interdepartmental disputes within the federal government, this doctrine of judicial review has worked well. Where theoretically co-ordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is because these problems involve much less 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, deals with individual rights, particularly in the First Ten and the Fourteenth Amendments. But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. *Fletcher* v. *Peck*, in 1810, represented an attempt by Chief Justice Marshall 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, the high water mark of the trend in protecting corporations against legislative influence was probably *Lochner* v. *NY*. To the majority opinion in that case, Holmes replied that the Fourteenth Amendment did not enact Herbert Spencer's Social Statics. Other cases coming later in a similar vein were *Adkins* v. *Children's Hospital, Hammer* v. *Dagenhart, Tyson* v. *Banton, Ribnik* v. *McBride*. But eventually the Court called a halt to this reading of its own economic views into the Constitution. Apparently it recognized that where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases.

In these cases now before the Court, the Court is, as Davis suggested, being asked to read its own sociological views into the Constitution. Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the Court of the moral wrongness of the treatment 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 any conviction. If this Court, because its members individually are "liberal" and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects. To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction. To the argument made by Thurgood, not John Marshall that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are. One hundred and fifty years of attempt on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit 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 nine men.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy* v. *Ferguson* was right and should be re-affirmed. If the Fourteenth Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl'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

(By William V. Shannon)

In 1964, Senator Barry Goldwater won the Republican Presidential nomination. Governor George Wallace abandoned his 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 voted against censure for Joe McCarthy and fully endorsed the McCarthyite assault on the civil liberties of Government employes and private persons. Senator Goldwater stood squarely for a "war on crime" and against procedural safeguards that hobbled the police.

"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 reactionary fanaticism. 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 victory, the Justice Department was delivered into the hands of the two Goldwaterites. Two of his Arizona protéges—Richard Kleindienst and William Rehnquist—became Deputy Attorney General and Assistant Attorney General, respectively.

As a further consequence, Mr. Rehnquist has now been proposed for one of the two vacancies on the Supreme Court. His bleak record on racial equality, civil liberties and the overweening power of government to coerce private individuals in the name of order and security is wholly consistent with that of his political sponsor.

Mr. Rehnquist publicly opposed the passage of the Phoenix municipal ordinance and the Arizona state law requiring nondiscriminatory racial policies on the part of bus stations, restaurants and other places of public accommodation. That was in 1964–65, extraordinarily late for anyone to refuse to recognize the legitimate claims of Negroes to equal treatment.

Wherever the convenience of the police and the rights of the citizen conflict, Mr. Rehnquist wants to enlarge the power of the police and circumscribe the citizen. He would alter the "exclusionary rule" that prevents prosecutors from making use of illegally obtained evidence. He has argued for the Government's right to tap the phones and electronically "bug" the homes of individuals whom it suspects of "national security" offenses and to do so without a court order. Rather than restrict such dangerous power to cases involving spies for foreign countries, he would apply it to any American citizen without restraint.

Warning against his confirmation as "a dangerous mistake," the Ripon Society, made up of progressive young Republicans, declared in the latest issue of its magazine: "Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an alarmist fear: that we are moving into an era of repression. The entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited."

A man's opinion can change but a mature man's habits of mind rarely change. Ominously, Mr. Rehnquist has a zealot style that borders upon intellectual McCarthyism. After serving as a law clerk to the late Justice Robert Jackson, he gave an unusual interview in which he attacked other Supreme Court law clerks as "left wing" and said that "unconscious slanting of material" influenced the cases on which the Court granted *certiorari*.

Mr. Rehnquist's first political speech in Arizona in 1957 was a scathing attack on the Supreme Court, which included derogatory personal remarks about Chief Justic 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 decisions of June 17, 1957."

Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case. Two of them were written by Justice Harlan, a distinguished conservative. 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 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 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 Powell to the Supreme Court. In this decisive manner, the Senate has shown how false was the imputation that it would not approve a Southerner or a conservative. When a nominee is a man of professional stature, wide experience, and a fundamental belief in the basic guarantees of the Constitution, no regional bias or philosophical disagreement bars his way.

It is a source of profound regret that President Nixon's other nominee 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 on which the Senate refused to confirm two earlier Nixon nominees. His record does not show either insensitivity to potential conflicts of interest or deficient professional qualifications. Rather, his are the defects of basic insensitivity to racial equality and seriously deficient understanding of the Bill of Rights.

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 with hardly a ripple of controversy. But twenty-five years of Supreme Court rulings, Congressional legislation and social upheaval have made him an anachronism. Commitment to equality of treatment and opportunity for all races has become one of the indisputable 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 indivdual liberties also disqualifies him. The Constitution is a libertarian document. The first ten amendments and many other provisions are prohibitions against the exercise of certain kinds of power by the Federal Government and against the arbitrary, excessive, or unreviewed exercise of other powers.

As 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 and enhancing 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 these intrusions of governmental authority will never touch his life, but the whole history of human liberty shows that the unpopular dissenter 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 national board of directors of the American Civil Liberties Union stated: "We know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed."

Free societies are judged by how they treat their racial minorities and by the extent of the liberty they allow the individual citizen. On both counts, Mr. Rehnquist fails to qualify as one of the guardians of a Constitution of free men.

ALIENATING INDIA

President Nixon's declaration of "absolute neutrality" in the Indian-Pakistani conflict fails to conceal Administration policies, which have, in fact, been obviously biased in favor of the Government of President Yahya Khan in Islamabad.

During the eight months of repression in East Pakistan which led to the present international conflict on the subcontinent, Washington's "neutrality" consisted of maintaining silence while Yahya's troops suppressed a freely elected autonomy movement in East Pakistan, were responsible for the death of thousands of Bengalis and forced millions more, mostly Hindus, to flee to India where their presence has posed a growing threat to Indian political, economic and social stability. For many months the Administration actually gave material support to this unconscionable repression by continuing to ship small amounts of military supplies to Islamabad.

Administration officials argued that their public silence and the continuance of aid were designed to strengthen quiet efforts to promote a political settlement in East Pakistan that would bring peace and the return of the refugees. But there is no evidence that President Yahya has tried to reach any accommodation with the imprisoned Sheik Mujibur Rahman and the other elected representatives who command the confidence of the overwhelming majority of Pakistan Bengalis.

Having failed to condemn the repression in East Pakistan or to press for a genuine political solution, the United States has now flatly charged India with "major responsibility" for the resulting international conflict; having waited months to suspend arms aid to Pakistan, the Administration has promptly suspended military and economic aid to India. This is hardly "absolute neutrality"—even though it must be fully recognized that India is by no means guiltless in the actual outbreak or armed conflict, and, despite all the hypocritical and self-serving statements issued from New Delhi almost daily, has been aggressively maneuvering against her northern neighbor. There is plenty of blame to go all the way around.

United States efforts at the United Nations, first in the Security Council and now in the General Assembly, have been aimed at bringing about a simple cease-fire and withdrawal of forces. Urgent and desirable as such action surely is, it cannot be practically effective unless the United Nations and its leading members—especially the United States—are prepared at the same time to recognize and attempt to deal with the root cause of the problem in Pakistan.

MENDING TIES WITH CANADA

Prime Minister Trudeau, a man not usually given to inflated rhetoric, says President Nixon in their White House talks offered him "a fantastically new statement" of United States respect for the political and economic identity of Canada. Mr. Nixon said things to him "unequalled by any other President in speaking about Canada," Mr. Trudeau told a news conference.

If this is true—if Mr. Nixon acts henceforth in the spirit described—Mr. Trudeau's visit has produced the best news to come out of Washington on the foreign policy front in months. A rebuilding of something like the old trust that once existed between Ottawa and Washington could soon arrest the deterioration 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 resettle 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, ranking tenth among industrial countries and sixth or seventh in per capita trade.

Canada was never simply the tail to the United States kite in world affairs that many Canadians believe; but in the future it probably will try even more foreign policy initiatives such as the recognition of China and the visit of Soviet Premier Kosygin. Canada is likely in the near future to set up some machinery for screening investment from abroad that American capital may find irksome. It is certain to be ever more zealous in conserving Canadian natural resources for home use.

According to Mr. Trudeau, President Nixon is sensitive to these desires, compares them with the determination of Americans at an earlier period to lessen their dependence on foreign investment, and will do his utmost to avoid giving Canadians the feeling that they are regarded as a "colony" by Washington.

We hope subsequent Washington actions will bear out Mr. Trudeau's optimistic interpretations. 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, easily passed muster in the Senate Judiciary Committee, though doubts were expressed about Rehnquist. Both men are superior to the mediocre nominees submitted to the American Bar Association by the White House and disapproved by the ABA committee. Powell was approved unanimously by the Senate committee, and Rehnquist was accepted by a 12 to 4 vote.

The four negative votes on the latter nomination reflected a growing persuasion among the senators that Rehnquist's views about civil rights questions, especially concerning racial equality, are unjudicial and expedient.

We share the doubts about Rehnquist. He is able, intelligent, honest, but the Senate has the duty to judge him not on these characteristics alone but on his ideas—as Rehnquist himself has argued.

The evidence that he believes in detouring or watering down the guarantees of the Bill of Rights, in order to catch and punish criminals or Communists, seems quite strong. He has spoken in favor of arbitrary wiretapping by police, "preventive detention" or jailing suspects for long periods without trial. Attorney General John Mitchell's "no knock" raids and similar repressive actions.

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."

Rehnquist seems to favor a diminution of the powers of the judicial branch in favor of the executive, the willingness to put ends over means.

Moreover, Rehnquist has expressed himself about Supreme Court decisions in ways that indicate he mistrusts the court. He said, for example, that Communists had scored significant victories from decisions of the court. Is there a suggestion that Communists do not have rights? Rehnquist's views on measures to assure equality for Negroes leave similar doubts concerning his dedication to the principle of equality under the law.

We take no stock in the smears concerning Rehnquist's alleged membership in an extremist right wing organization in Arizona, which he denies. Nor are we concerned about the vague and unproved stories about his

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 of the Constitution is the foundation of American liberty and of a free society. Devotion to these liberties rises above political conservatism or liberalism, and we would not select a Supreme Court justice who was willing to compromise in this area.

Lewis Powell, on the other hand, we endorse without qualms. He is a staunch conservative—but a conservative in the Southern pattern of Senator Sam Ervin (Dem., N.C.), dedicated to the doctrines of 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 REHNQUIST MEET THE HIGH STANDARDS EXPECTED OF THE SUPREME COURT?

Asked what he thought of William H. Rehnquist as a prospective justice for the U.S. Supreme Court, this was the reply of John P. Frank, a noted expert on the Constitution 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 intellectual force for reaction. I do not believe 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 backward 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 police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 per cent in favor."

In spite of this grim estimate and his feeling that "it is a deplorable appointment," Mr. Frank still thought Mr. Rehnquist should be confirmed for the Supreme Court.

He subscribes, apparently, to the current notion that a man's ability as a lawyer and his legal views are two separate things, that it is somehow unfair to inquire into a nominee's personal views on the law when considering him for the Court.

Yet President Nixon and Mr. Rehnquist have both said a nominee's views—his judicial philosophy—should be part of an inquiry into his fitness for the highest judicial appointment in the land.

When President Nixon announced the Rehnquist nomination on October 21, he said judicial philosophy was one of the major considerations governing his choice. And Mr. Rehnquist, in a Harvard Law Review article he wrote in 1959, urged that the Senate restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him . . ."

We agree with Mr. Nixon and Mr. Rehnquist. For us, the crucial question is this: To what extent would Mr. Rehnquist's philosophy of the law hinder 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"?

I—THE REHNQUIST RECORD ON CIVIL RIGHTS

Mr. Nixon's statement admits no exceptions. So it is fair to ask if Mr. Rehnquist is prepared to assume an obligation to all of the American people and not just to some of them.

What gives that question particular point are the first substantial public expressions of his views on civil rights when he was a lawyer in private practice in Phoenix during the 1960s.

PEOPLE AND PRIVATE PROPERTY

In 1964, Phoenix was about to pass a public accommodations law, a local ordinance requiring stores, restaurants and other places of public accommodation to serve all members of the public without regard to race, color, religion or national origin.

It was June 15, about five months after the U.S. House of Representatives had passed, by overwhelming vote, a civil rights law with a public accommodations section similar to the one Phoenix was considering; it was five days after two-thirds of the members of the U.S. Senate had broken a filibuster and signified their readiness to adopt the same provision. 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]." The council went on to pass the ordinance unanimously. Still dissatisfied, Mr. Rehnquist wrote to the local paper. The ordinance, he said, in a letter to the Arizona Republic, "summarily does away with the historic right of the owner of a drug store, lunch counter or theater to choose his own customers.

"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 these minorities a chance to have access to integrated eating places . . ." In his view, it placed "a separate indignity" on the proprietor in order to correct the "indignity" society had placed upon "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."

Asked at the Senate Judiciary Committee 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 readily accepted and I think I have come to realize since, more than I did at the time, the strong concern that minorities have for the recognition of these rights." Since that "time" was in the wake of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington and the demonstrated 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 Superintendent Seymour sought to desegregate the city's schools, saying "we are and must be concerned with achieving an integrated society," Mr. Rehnquist wrote again to the local paper taking issue with that statement. "We are no more dedicated to an 'integrated' society than we are to a 'segregated' society," he said.

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 them."

It is hard not to hear on echo here of the old Dixiecrat argument that Negroes in the South would have been content with their lot were it not for "outside agitators." Thirteen years after the U.S. Supreme Court had declared racially segregated schools to be unconsitutional Mr. Rehnquist was still arguing 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 asserts he took part in a local campaign of "harassment and intimidation" to keep minorities from the polls.

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 assert that when one of them, a cripple, remonstrated with him, 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 details of the charges. Further, a fifth 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 the facts.

The Carswell nomination

When the Washington Post in 1970 opposed the nomination of G. Harrold Carswell to the Supreme Court, citing among its reasons an anti-civil rights record that included a speech in favor of white supremacy, serving 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 Carswell's defense.

"Your editorial clearly implies," he wrote, "that to the extent the judge falls short of your civil rights standards he does so because of an anti-Negro, anti-civil rights animus, rather than because of a judicial philosophy which consistently applied would reach a conservative result . . ."

Judge Carswell's decisions in civil rights 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 identification with Carswell's 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 Judge Carswell make credible Arizona State Senator Cloves Campbell's assertion that in 1964 Mr. Rehnquist told him he "was opposed to all civil rights laws."

Certainly Mr. Rehnquist's denial should be tested before the Senate Judiciary Committee with Senator Campbell present.

II—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 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 hostility to 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 a year later for the Bar Association Journal observing in his opening sentence, "Communists, former Communists, and others of like political philosophy scored significant 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. 22, 1971), William V. Shannon had this to say about the rulings Mr. Rehnquist saw as "significant victories" for Communists, "Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case.

"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 major civil liberties issues:

On Government 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 federal 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 demonstrators

In a letter to the Washington Post (Feb. 14, 1970), Mr. Rehnquist railed against "further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators," lumping all three together without discrimination.

And in a speech to the Newark Kiwanis Club he stated, "in the area of public law . . . disobedience cannot be tolerated, whether it be violent or nonviolent disobedience. If force is required to enforce the law, we must not shirk from its employment."

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 martial law"—a most dangerous and repressive doctrine in the hands of the police.

Mr. Rehnquist denied using the phrase in connection with the May Day incidents. 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 to the disadvantage of the accused. He favors pre-trial detention, saying in defense of the D.C. Crime Law, that there is a "social need to detain those persons who pose a serious threat to the public safety . . ."

He would like to modify the "exclusionary rule" which "now prevents the use against a criminal defendant of evidence which is found to have been obtained in violation of his constitutional rights."

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 proper warrant and with probable cause as no 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 fits the usual notion of a strict constructionist.

III—GOVERNMENT VERSUS THE RIGHTS OF PEOPLE

In Mr. Rehnquist's view, big government knows best. On several occasions he has defended extreme use of governmental powers against citizens.

Wiretapping

He has defended governmental wiretapping under court order in criminal cases and without court order in national security cases. "Is the invasion of privacy entailed 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.

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 neutral one—if he feels the invasion is necessary to protect American troops.

This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote the opinion overruling 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 power to do "anything, anywhere that can be done with an army or navy." Yet Mr. Rehnquist, ironically, has in effect advanced that notion in his statements supporting the Cambodian invasion.

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 can give additional duties to any agency created by Congress without the express consent of Congress. Now the SACB can designate as subversive any offending organization of citizens.

IV—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, "no nominee may justify withholding from the Committee which must initially pass upon his qualifications and disposition for handling this political power 'in legal form' a frank expression of his political and legal philosophy. The attorney-client privilege is not the attorney's.

"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). His client is the people, and not the President. There is no such privilege, which any nominee was so bold as to claim before, against the Senate's right to know in fulfilling its responsibility to the same people."

2. Asked during the nomination hearings to say what he had done for civil rights Mr. Rehnquist could think of only two things—he had represented some indigents during the time he practiced law in Phoenix and he had served on the Legal Aid Board there.

But attorneys know that when they are designated by the court to represent indigents they must accept the assignment; there is no voluntary choice involved. As for the Legal Aid Board, Mr. Rehnquist served on it by virtue of his being an ex officio member of the Legal Aid Society where he represented the Bar Association.

3. Mr. Rehnquist has failed to clarify his connections with Arizonians for America. Written interrogatories to Mr. Rehnquist invited a response to the *St. Louis Post Dispatch* article of November 17, 1971, detailing Mr. Rehnquist's connections with this right wing group.

No response was forthcoming beyond the denial of membership and a failure to recollect one meeting; but a denial of membership is not a denial of connections with or participation in an organization and the record demands clarification.

4. Asked about his role in the Administration's attempt to stop publication 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 excerpts.

5. Asked about his role in opposing the desegregation of the Phoenix public schools in 1967, Mr. Rehnquist responded before 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 a means to desegregate the schools, but rather desegregation as a desirable end.

It was on this specific issue that Mr. Rehnquist wrote "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." It was the goal of desegregation he opposed, not just one means (busing) to that end.

WHAT SORT OF JUSTICE WOULD MR. RENQUIST MAKE?

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. It is the record of an aggressive ideologue 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 1964] should be legitimized on the Supreme Court."

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 other matters, but 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 much more time to delve into the matter than is now the case, when we are right up against the voting time on the nomination before us.

I do compliment the Senator from Indiana and his colleagues on the Judiciary Committee who filed minority views for delving into this matter, and other Senators like the Senator from Massachusetts (Mr. BROOKE) 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 within a presidential 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, and political questions facing Americans, it becomes of utmost importance for each Senator to determine whether a nominee meets certain minimum standards of qualification for this high judicial office. Each Senator must take into consideration, therefore, the personal character, the legal ability, the political views, and the judicial philosophy of the nominee.

In the time I have had 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 of the United States. Because I was concerned from the beginning about this problem, I have sought advice from those in my State who are practicing law or teaching in the law school or otherwise deeply involved with the functions of our courts, and particularly the Supreme Court.

I have received a number of letters from those who are concerned about this 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 them express grave concern 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. Of particular significance to me 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 majoritarian tyrany is incapable of being moderated by political power—i.e., in cases involving the interest of minority groups and their members. The record of Mr. Rehnquist in this connection appears to be highly questionable: as late as 1964 he appears 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 anachronistic, emphasizing the need to short-circuit constitutional rights (e.g., 4th Amendment rights) in order to make law enforcement more effective. Since the President explicitly lauded Mr. Rehnquist as a strict "law-and-order" advocate, when he announced his nomination, it seems clear that confirmation would be taken 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 one than the "law-and-order" forces appear to be willing to admit. Mr. Rehnquist's simplistic views in this connection suggest that he lacks the range of vision and balanced judgment necessary to effective adjudication of constitutional issues in this vital area 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 mere symptoms—a step which may be politically profitable to the President but is potentially disastrous to the nation.
>
> 3. Mr. Rehnquist appears to be wanting in balanced judicial temperament. His willingness to take extreme positions, bordering on fanaticism, in respect to such matters as nondiscrimination in public facilities in Phoenix or the desirability of permitting wiretapping and searches of other kinds without search warrants in certain cases, do not provide assurance that he would be able to exercise balanced judgment as a member of the Court. What the Court needs at the present time is a man with the wisdom, objectivity, and articulateness of Mr. Justice John Harlan (retired). On the basis of the Senate's hearings and his known record, I am convinced that Mr. Rehnquist is far indeed from being that kind of man (although Louis Powell may well prove to be a worthy successor to Justice Harlan).
>
> 4. It seems quite clear, from what I have been able to learn about Mr. Rehnquist, that he is not a "strict constructionist" in any meaningful sense of that term. On the contrary, he appears to be quite willing to disregard constitutional language to serve what he regards as desirable political ends; in this sense, it seems quite probable that he would be an "activist" justice of ultra-conservative 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. William Rehnquist's nomination. It is clear that he is not another Carswell; he is undoubtedly bright and intellectually capable. He has, however, indicated an insensitivity to human values and civil 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 Senator from Indiana, in accordance with his request, that he has 2 minutes remaining.

Mr. MOSS. Does the Senator wish to reserve that time?

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, wrote 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 nation ill or well. If my information is correct, then I think Mr. Rehnquist would ill serve the nation. We should not walk backward along the path that has been slowly 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 judicial policy. His record is not that of a true conservative. Rather, it is replete with manifestations of an aggressive theorist with combatative impulses and a strong commitment to a harsh, narrow doctrine concerning government and the individual. He has consistently accorded the most narrow 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 reveres nor understands the Bill of Rights.

Mr. President, on the basis of Mr. William Rehnquist's frequently expressed and obviously deep-seated insensitivity to human rights, I will vote "no" with regard to his confirmation to the Supreme Court of the United States.

I thank my colleague from Arizona for according me some of his time, which I have used in opposition. I think it indicates fairminded generosity on his part, and I thank the Senator from Indiana for yielding to me.

Mr. FANNIN. Mr. President, I yield to the Senator from Kentucky such time as he may require.

Mr. COOK. I thank the Senator from Arizona.

Mr. President, I might say that I am delighted we are bringing this to a conclusion, because I, for one, will receive a great deal of personal satisfaction in voting for William Rehnquist whom I, in my short period of time in Washington, am proud 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 Bill 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 noticed in our local 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 without submitting 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.

I noticed, 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 "Rehnquistian concepts as qualified martial law." I think it is unforunate 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 Rehnquistian 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. Weiner, 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 sufficiently 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 as humble as any individual I know of. 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 move toward this historic vote, let the message go forth that the Senate once again takes seriously its advice and consent powers conferred by the Constitution.

Mr. President, I first made that statement October 1, 1968, as the Senate prepared to decide the future of Abe Fortas. I said then, as we neared the vote on that nomination:

Scholars will look back on this day not only as a significant day, but as a proud day 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 checks and balances—between and among the several branches of government that was envisioned by our Founding Fathers.

Mr. President, although I disagree with the position of the distinguished Senator from Indiana with respect to this nomination, I want to say, 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 they did the Senate 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 and has been in the interest of the Supreme Court.

Events subsequent to October 1, 1968, have clearly established that that date was a turning point.

Since then, six men have been nominated 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 acted only after careful and searching examination of the nominee's qualifications, his background and experience, and even his judicial and political philosophy.

Mr. President, during the 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 105 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 the Senate all but 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 since selected—Chief Justice Burger, Justices Blackmun and Powell, 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 when we will vote on the confirmation of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

Now that all the evidence is in, it is obvious 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 government from Harvard before 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 that scholastic achievement is 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 Bill Rehnquist professionally for a number of years. After his nomination by President Nixon, I talked to a great many people in Arizona, 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-

flected 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 competence, 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 intimately both as a friend and an adversary, or do you choose to believe the innuendos 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. Rehnquist will make more than a good Supreme 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.

Arizona Gov. 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 tremendous legal scholar." Former Arizona Supreme Court Judge Charles Bernstein stated:

I couldn't think of a better choice . . . he has an extremely well-balanced philosophy . . . a sense of feeling for human beings, especially for the little man.

Gary Nelson, attorney general of Arizona, noted:

I was ecstatic at the announcement of his nomination . . . I think he's outstanding.

State Senator Sandra D. O'Connor, a law school classmate, stated:

When Bill has expressed concern about any law or ordinance in the area of civil rights, it has been to express a concern for the preservation 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. Rehnquist from his fellow Arizonans go on and on. It is also clear that the tributes have flowed equally from those who have worked with him in his capacity as Assistant Attorney General in the Office of Legal Counsel. The principal area of expertise of this Office is in matters of constitutional law. 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 Attorney General and gives informal opinions and advice to agencies within the executive branch of the Government. In short, Mr. Rehnquist is, as President Nixon described him, the President's lawyer's lawyer.

As I indicated earlier, the endorsement by the people who have worked with the nominee in this position is as strong as that given by those who knew him in Phoenix. Mr. Rehnquist's first assistant in the Office of Legal Counsel, Martin Richman, a former clerk to Chief Justice Earl Warren, and who was in the Office during Ramsey Clark's tenure as Attorney General, but who stayed on during the first 4 months when Mr. Rehnquist came to the Office, had this to say:

In terms of character, he is strong, honorable, straightforward in his actions and positions. I thought he showed exceptional sensitivity and decency in his decisions on administrative and personnel matters within the Office. While these traits do not necessarily bear on legal ability, they speak deeply of the character of a man.

Mr. Richman's successor as first assistant, Thomas E. Kauper, who is now a professor of law at the University of Michigan Law School, also notified the committee that he believed Mr. Rehnquist to be "exceptionally well qualified" for the Court. Professor Kauper added:

William H. Rehnquist is as fine a lawyer as I have encountered. He has a scholarly, intellectual approach to legal problems which is not found in many practicing lawyers. While he and I did not always agree on the resolution of legal issues, I always received a fair hearing and found him eager to learn all that he could before making a decision. In addition to a powerful legal mind, and perhaps equally as important, Mr. Rehnquist has abiding interest in and concern for the development of the law and legal institutions. He has all the qualities to become a truly great judge, and to assume a substantial degree of intellectual leadership on the Court for a number of years to come.

These conclusions are echoed by members of the career legal staff in the Office of Legal Counsel.

The qualities that earned these plaudits for Mr. Rehnquist from practitioners were also known to the academic community in Arizona. Dean Willard H. Pedrick of the Arizona State University College of Law felt that these qualities would make him an excellent professor of law and approached him on the subject about a year ago. Because of his commitment to the Department of Justice, Mr. Rehnquist declined to consider such a post. Dean Pedrick wrote to notify the Judiciary Commitee of the intelligence and integrity of the nominee and warmly endorsed his nomination to the Court. He stated:

The qualities that would, in my judgment, have made him an excellent law professor should make him an excellent Justice of the United States Supreme Court. On that Court, charged with responsibility to serve the interests of all of the people in interpreting the Constitution of the United States and the laws of Congress, I am confident he will serve his country with great distinction.

In addition to the support of colleagues who have worked closely with him in the daily practice of law, Mr. President, I want to point out that clergymen, doctors, and other professional people are among those sending in praises of William Rehnquist, as a legal scholar, a humanitarian, a civic worker, a good Christian, and a fellow who is loved by his friends and associates. William 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 Supreme Court justice. More important, he has the character and the human qualities that will make him a great Justice. I urge his confirmation and I urge that we give him a substantial vote of confidence as he undertakes this awesome responsibility.

I reserve the remainder of my time.

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

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

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

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes remaining.

Mr. SCOTT. Mr. President, will the Senator yield to permit me to withdraw the agreement as to the time for the cloture vote tomorrow?

Mr. FANNIN. I yield.

Mr. SCOTT. Mr. President, I ask unanimous consent that the time heretofore agreed to for the beginning of the running of the debate on the cloture motion and the vote on the cloture motion be now withdrawn and dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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 he opposed is about to be accepted. I am concerned that this nomination is being voted on after a relatively short period of consideration compared to that with respect to the nominees who were opposed by the Senator 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 free debate, this is indeed 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 Court as bodies dedicated to protect human rights and individual rights. I wonder, in the depth of my heart, just what they will think this afternoon when they read the final outcome of the vote, when they see placed on the Court a man who testified against letting black people in drugstores and in schools and was unwilling to outlaw blockbusting, a man who repeatedly 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 are important. Those of us in the Senate were not the only

ones 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 28 law schools wrote and called to tell us of 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 outpouring 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 me and that he was referring to the Fortas nomination.

Mr. BAYH. Yes. I was referring to the Fortas and Thornberry nominations. If one compares 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 4½ 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 date of debate of 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 1½ days of debate—a debate 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. HART. 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?

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 65 columns of comment 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 gallaries 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 photograph.

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 Senate in session immediately after the vote on confirmation of the nomination of Mr. Rehnquist.

Senators are requested to remain in their seats after the announcement of the vote for a series of pictures which will be taken and which will consume approximately 6 minutes.

The VICE PRESIDENT. The hour of 5 p.m. having arrived, under the unanimous-consent agreement, the Senate 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 pair with the distinguished Senator from Illinois (Mr. PERCY). If he were present and voting, he would vote "yea"; 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. MUNDT) 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 Maine (Mrs. SMITH) would vote "yea."

The pair of the Senator from Illinois (Mr. PERCY) has been previously announced.

The vote was announced—yeas 68, nays 26, as follows:

[No. 450 Ex.]

YEAS—68

Aiken	Eastland	Pastore
Allen	Ellender	Pearson
Allott	Ervin	Pell
Baker	Fannin	Proxmire
Beall	Fong	Randolph
Bellmon	Gambrell	Roth
Bentsen	Goldwater	Saxbe
Bible	Griffin	Schweiker
Boggs	Gurney	Scott
Brock	Hansen	Sparkman
Buckley	Hatfield	Spong
Burdick	Hollings	Stafford
Byrd, Va.	Hruska	Stennis
Byrd, W. Va.	Jordan, N.C.	Stevens
Cannon	Jordan, Idaho	Stevenson
Chiles	Long	Symington
Cook	Mathias	Taft
Cooper	McClellan	Talmadge
Cotton	McGee	Thurmond
Curtis	McIntyre	Tower
Dole	Miller	Weicker
Dominick	Montoya	Young
Eagleton	Packwood	

NAYS—26

Bayh	Hartke	Metcalf
Brooke	Hughes	Mondale
Case	Humphrey	Moss
Church	Inouye	Muskie
Cranston	Jackson	Nelson
Fulbright	Javits	Ribicoff
Gravel	Kennedy	Tunney
Harris	Magnuson	Williams
Hart	McGovern	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—5

Anderson	Mundt	Smith
Bennett	Percy	

So the nomination 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. METCALF) 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. 2891) 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 insists upon its amendment, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ST GERMAIN, Mr. MINISH, Mr. WIDNALL, 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. 2007, 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 time?

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 to hear the speaker. 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.

Mr. NELSON. Mr. President, I assume the time taken to restore order will not be charged to our time.

I ask unanimous consent that the time begin running now and I ask unanimous consent that I may yield to the Senator from Missisippi 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. Is there objection?

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.

AUTHORIZATION FOR AN ADDITIONAL DEPUTY SECRETARY OF DEFENSE

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8856, which was reported earlier today. This matter has been cleared by both leaders, and I ask for the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill to authorize an additional Deputy Secretary of Defense, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment 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 "eight" and inserting in lieu thereof "nine".

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 passed the House. It 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. 2007) 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 desparately 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. BIBLE. 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 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 and an innovative Legal Services Corporation.

Last year the President's message made it perfectly clear that the President had not 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 this. I blame his advisers. 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 vetoes.

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 with care could comment on it in such wholly negative and mistaken terms as this veto message does.

There runs through the language of this veto message attacking the proposed child development program the insinuation that the program would weaken the American family. The President says that there are "family 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 hasten to add that he did not cite what that "respectable school of opinion" was and he in no way delineates which provisions of this bill had "family 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 lead to communal ways of child rearing. There was no testimony before the committee that this bill held any such danger whatsoever.

Is it conceivable that the National Council of Churches, the U.S. Catholic Conference, the National Council of Negro Women, and the League of Women Voters, would—for one second—support legislation which included such dangers? Obviously not. Needless to say, if any 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 speechwriters put into his misleading, unfortunate veto message.

One rightwing weekly headlined a story about the bill, stating, "Big Brother Wants Your Children." A story in another publication said, "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 "Sovietized society."

Mr. President, these charges are worse than irresponsible. Is it to these hysterical charges that the veto message refers when it says, "There is a respectable school of opinion that this legislation would lead toward altering the family relationship?"

I wish the President, or any one of his Secretaries or advisers, 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 opposed to legislation that deals with the Nation's desperate human needs that they resort to irresponsible scare charges. However, it is worse than irresponsible for the administration to dignify this hysteria in 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, and I think the President does, too.

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's White House 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 no 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 16, the committee spent 7 full days on child development under the leadership of the distinguished Senator from Minnesota (Mr. MONDALE), gathering 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 Dr. Edward Ziegler, Director of the administration's Office of Child Development.

Well, you can bet your hat that the President and his advisers did not discuss this measure with Dr. Ziegler, who appeared in favor of the proposals. Dr. Ziegler testified that there are right now 5 million pre-school 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—now must be made to 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 more minutes.

If adequate provision according to HEW's own statistics on day care were provided for all 5 million preschool children of mothers who now work the cost would be $8 billion. The legislation which the administration has vetoed set a goal 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 needs, of the extensive hearings, of the long months of negotiation between the two Houses of Congress and the conferees and the administration he could possibly have characterized this legislation as "radical" and "irresponsible" as the veto message does.

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 functioned so successfully.

Just the Headstart guidelines require that committees of parents serve as boards of directors for child development centers, so the child development legislation provides for local policy committees, half of whose members must be parents, to oversee each program. Just as Headstart provides for prime sponsors 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 controlled at the Federal level, or even at the State level. The State capital is usually hundreds of miles away and often ill-equipped to plan or supervise 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 run their schools at the local level. And that is just where our child development legislation put responsibility, with the parents and at the local level.

Over a period of weeks the conferees negotiated 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 Secretary of Health, Education, and Welfare with the understanding that it would be the same as the level for receiving assistance under the welfare reform 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 with an annual income of $4,320. Between $4,320 and $6,960, such a family could be charged modest fees.

The veto message characterizes the earmarking of funds in the legislation as "genuinely reactionary legislation" because "it locks OEO executives 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 all administrations—Democratic and Republican—really want 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 before they shift funds from programs which they consider less productive in order to devote those funds to what they consider to be "hopeful new initiatives?"

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.

Can you think of 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 2 years, ago. This year, we 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 kind of nonsense is 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, I have not heard of any other Federal department which has any flexibility at all in shifting funds from one program to another. The Office of Education has no flexibility 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 though that is 25-percent more 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 "radical," in another part it is characterized as "genuinely reactionary." The message is referring here to the fact that the congressionally approved legislation provides for earmarking of funds for 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 authority. And that is the trouble 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 some 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 the emergency food and medical services program. We earmarked $62.5 million for EFMS in the previous economic opportunity bill. Last year OEO actually spent $45 million for EFMS. But this year the OEO budget proposed to phase out the program.

That is what this administration stands for. Oh, they can give $3.6 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, and the powerful, and give them $9 billion a year in tax reductions. But to give $62 million to the hungry, that is another matter. This is their concept of the free enterprise system; let those hungry 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 $62.5 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 anybody in this 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 with food in hundreds of counties all 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 may prove less productive?" 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 the alcoholism 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 of its constitutional powers, I think we must assert the authority to authorize programs and appropriate the money. I think this country ought to understand what the standard of decency is in this administration, and who their heart bleeds for, and who they will help, and who they do not care about. They cry for 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 impact program be 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 level.

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 some programs 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 Agnecy faces is that the 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 had asked fully $100 million less, $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 thought it wise to 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 back the budget for the poor by $100 million, and then give a $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 would 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 already 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 take over the legal services program. Congress has been willing to go along with proposed transfers of programs to other agencies when these proposals can be justified.

We on 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 particularly concerned 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 agency personnel and board members around the country are very concerned about any proposed shift in control of poverty programs. A coalition of some 90 national organizations, led by the National League of Women Voters and the Urban Coalition and including most major union, church, and civil rights organizations testified before our committee in strong opposition to the idea of turning community action agencies entirely over to local authorities. In response 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 approval 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 every local program can have confidence as to where they stand with the Federal Government.

So they have the President reciting as one of the reasons for vetoing the bill the fact that we do not permit any transfer of OEO functions without consent of Congress. He considers that outrageous; whereas, his representative, Mr. Sanchez, came before the committee, saying that they would not transfer any, had no intention to transfer any, functions. So what is their complaint?

I would at least suggest that the people who have the responsibility for writing the veto message be the people who have the responsibility for administering the program, so that the veto message would not say so many foolish things that cannot be defended on the record in any way.

Let me point out that no other agency of the Government can delegate programs to other agencies without congressional approval. While I am not opposed in principle to the delegation authority which the Office of Economic Opportunity has had, it can hardly be argued that this legislation is taking away the prerogatives of the administration when no other agency or department of the Government can spin off its programs without congressional approval. Perhaps 1½ years from now, when the economic opportunity legislation is again up for renewal, we might not have to renew this provision.

Numerous witnesses before the Labor and Public Welfare Committee testified that there is now great uncertainty as to whether such programs will continue as a part of OEO. People carrying out programs at the local level do not know whether a few months from now their relationships with the officials with whom they must work to secure grants are going to be completely changed and whether they will be working with new officials of some other department or agency of the Federal Government.

If OEO programs are to be transferred, Congress should certainly have the opportunity to hold public hearings, where those affected can give their views.

I think it is an entirely reasonable proposition to expect the administration to secure congressional approval before spinning off programs which are now administered by the Office of Economic Opportunity.

Nowhere in this ill-advised veto message was more offensive to the Congress than in its handling of the Legal Services Corporation. There is a balance of power in the American governmental system. It is the responsibility of the administration to propose legislation. It is the responsibility of the Congress to consider it and modify it, and then the responsibility of the executive branch to carry out the wishes of the Congress. This administration seems to feel that Congress has no right to modify its proposals. Take the legal services issue, for example. After several years of political controversy, it was agreed by most concerned persons that it would be better to remove the legal services program from the Office of Economic Opportunity and to establish it in an independent corporation. The administration proposed that the board of directors of that corporation be appointed entirely by the President. Others believed the board of directors should be more broadly representative—in particular, that representatives of the poor and representatives of the major American bar associations, who have from the beginning been the chief supporters of the program, ought also to be represented on that board. In the classic manner of disagreement between the executive branch and Houses of the Congress, a compromise was reached. The President would name all members of the board, but he would be required to name to that board a certain number of individuals chosen from lists submitted to him by the American Bar Association, National Bar Association, American Association of Law Schools, American Trial Lawyers Association, and National Legal Aid and Defender Association.

A substantial majority—and a bipartisan majority—of the Senators believe that if the Legal Services Corporation is to carry on a vigorous program in defense of the rights of the poor it is essential that a significant number of board members be representatives of the major legal organizations whose support is the cornerstone of the legal services program. Frankly, the Members of Congress fear that a board appointed entirely by the President would not enjoy the same confidence among legal services clients, attorneys and the general public as a board that includes both Presidential appointees and representatives of the bar groups. In conference, the Senate position on this issue was substantially compromised to give the President the right to appoint every single member of the board, and to make it perfectly clear that he is compelled to appoint no specific individual. It was thought wise, however, to provide that a portion of his nominations for the board be made from lists submitted by the bar groups. We believe that such a solution is reasonable and workable.

Mr. President, I ask the Members of the Senate to join with me in voting to override this irresponsible veto and in doing so to repudiate the implications of this disastrous veto message.

Mr. President, I yield to the Senator from Minnesota whatever time he may desire.

Mr. MONDALE. Mr. President, I would like about 15 minutes.

Mr. NELSON. I yield to the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. MONDALE. I yield.

Mr. JAVITS. I might say to the manager of the bill that the understanding with respect to the unanimous-consent agreement originally was that there would be an hour and a half and a half hour. As announced by the Chair, it was 2 hours, to be equally divided. Senator DOMINICK, at my request, did not object, because I believe we can work out the time equitably.

I say that now only so that the Senator from Wisconsin may have that in mind if we have greater demand than for 1 hour.

Mr. NELSON. I spoke to the distinguished Senator from Colorado, and he indicated to me that he did not think they would want more than a half hour. We may not use all our time, but I asked for an hour and a half because a number of Senators did say that they wished to make some remarks.

Mr. MONDALE. Mr. President, first of all, let me express my profound appreciation to the distinguished chairman of the subcommittee, the Senator from Wisconsin (Mr. NELSON), for his inspired and creative leadership in the development of the measure which was vetoed by the President, and on behalf of the cause of justice in America. I should also like to commend the ranking Republican member of the committee, the Senator from New York (Mr. JAVITS), for his gifted and inspired contribution to the proposal which regrettably was vetoed by the President last night.

Mr. President, last night, President Nixon vetoed the Economic Opportunity Act extension. That bill, which received bipartisan support in both Houses of Congress, would extend the life of the Office of Economic Opportunity for 2 years, establish a National Legal Services Corp., to insulate the legal services program from political pressures, and establish a new developmental child-care program based upon our 6-year experience with Project Headstart.

In my view, this was a totally indefensible 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 would replace the family with communal child rearing.

I do not believe that the American Bar Association, National League of Cities, Academy of American Pediatrics, 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 63 Senators from both sides of the aisle, including the Republican national chairman, the distinguished Senator from Kansas, as well as the distinguished minority leader of the Senate and the distinguished assistant minority leader, are men of radical persuasion.

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 provide developmental day care opportunities on a voluntary basis to the children of both poor and working parents.

Mr. 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 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 on the problems 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 here, in the Nation's Capital. 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 they represent almost 40 percent of our population and 100 percent of our future. If we can afford a $9 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 provision of 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 organizations experienced in serving the needs of children—including the National Association for the Education of Young Children, the Black 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 administration'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 take the figure of working mothers who clearly need day care for their children, you are talking about 5 million children . . . There are slots presently 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 themselves.

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 to ignore reality.

The President contends that this program would diminish parental involvement with children. Yet it is specifically designed to have maximum parental involvement. It vests the major responsibility for the operation and control of child development efforts in the parents of the children these programs serve.

The bill deliberately requires that parents of children served by child development programs will compose at least one-half of the membership of both the governing boards created to administer these programs. 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 project:

And it expressly states that:

> Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children.

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 paraprofessionals and uniquely begins with a 6-month leadtime 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

States 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 adequately meeting the needs of 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 NELSON 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)(0), 513(9), 517(3)(4), 534, 535, 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 passed "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 proposal of the nature 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 given the Congress, the executive branch, and the public ample opportunity to review and assess child development efforts.

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 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, incalculable, and sinful injustice to these children.

That is what this bill was all about. It sought, through parentally controlled, locally controlled organizations, 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.

Time and time again Congress and the President have been advised to do so. The recently concluded White House Conference on Children, by an almost unanimous vote, voted as its No. 1 priority a comprehensive, family centered and family controlled child development program for preschool children. The recently concluded work of the Joint Commission on Mental 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, one of the most impressive cross sections 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 to deliver a mechanism and a strategy to bring hope and justice to the children of this country. This bill passed overwhelmingly here, despite mammoth administration opposition, and with a strong majority in the House of Representatives.

I am saddened that the President decided to kill it.

This is the Christmas season and, apparently, children will learn that there are still Scrooges around, even in 1971.

The President's objection does not run to child care alone. Even without the child care program he would veto this bill because of its provisions for a Legal Service Corporation—and why? The bill passed by the Congress permits the President to name all 17 members of the Corporation's board—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 very slender grounds for rejecting a thoroughly bipartisan compromise on composition of the board—a compromise which embodies all the 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 a broad cross section of attorneys, Democratic and Republican, conservative and liberal, across the land. Its objective was to bring justice to the poor, to make it possible for 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 enterprises, 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 the poor, enormous and powerful political and commercial 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.

That is why we proposed the establishment of an independent Legal Services Corporation. As with the child development program, the legal services proposal was developed on a bipartisan basis. Although there were differences on other issues, I believe the House-Senate conference was almost unanimously in favor of the compromise on the Legal Services Corporation which was contained in the bill which the President vetoed 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 to other agencies without congressional approval. But the administration representatives swore to the Congress that the administration does not wish to remove any programs from OEO during the year-and-a-half life of 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 the opposite is 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 parents whose children are in 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 designed to undermine the family 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 official message signed by the President of the United States.

Most disappointing of all, the tone of the President's veto message plays on the irrational fears 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 the people.

In view of the President's attack, it is more than ironic that his own family assistance plan would in many cases 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 shoddy day care 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 what happens to its children. We rejected 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? I would say it is the 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 our children. I think they will 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 most deadly 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. NELSON). I must say that I have not heard finer oratory anywhere. 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 the 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 or feeding the hungry or generally 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 food stamp 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 the recent increases brought 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 message. In that 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 true facts.

From the very beginning, I have been saying to my colleagues on this committee—and I put it in the supplemental report—that we had substantial problems with the bill which they were unwilling to recognize, and that if they had recognized such problems, we could have salvaged legislation extending the OEO.

We could not get a compromise. As a result, on the Republican side only two of the conferees signed the conference report, the Senator from New York (Mr. JAVITS) and the Senator from Pennsylvania (Mr. SCHWEIKER). The rest of the minority conferees did not. On the House side, only one Republican conferee signed it, Representative REID. The rest of the House minority conferees refused to sign the conference report.

Consequently, the problems in the bill remained unresolved. And that is what the President is saying. It is fraudulent to characterize President Nixon's position as anti OEO, child care, food for the hungry, or anything of that kind because he votoes a bill full of promises but accomplishing little.

There is no reason in the world why we cannot work out a perfectly good bill on this subject next year. And there is no reason either, in the year that the bill has been before us, that we could not have coordinated the Child Development Act with the child care provisions in H.R. 1 which has been pending before 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 Headstart, who in spite of favoring the bill said you cannot have effective prime sponsorship with anything less than 100,000 people. In the conference we reduced it to 5,000. President Nixon estimates that there may be 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 them, it has to deal with the Child Development Council which has responsibility over the prime sponsors.

Mr. Sugarman pointed out that the Office of Child Development within HEW could not possibly find or train personnel adequate to handle a program of this magnitude.

Additionally, Secretary Richardson, both before and after the bill passed Congress reiterated his concern about the potential manageability of the child care components.

I have no doubt in my mind that when we increase the child care centers, 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. I am not saying that we 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 to 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 programs 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. This is another reason that the President gave for the 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 entirety 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:

STATEMENT 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 will soon enumerate—reasons which have impaired the legislation from its inception—reasons which went unremedied throughout the legislative process despite warnings which I, among others, made as a cosignor 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 conferees and one House minority conferee.

The proponents of this legislation failed to heed or completely ignored protestations and reservations of 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 two year extension of the administration's poverty program. President Nixon's dissatisfaction with this legislation merely culminated objections 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. 2007 creates an unmanageable administrative rat hole—a rat hole of empty promises—empty promises which will neither fill the participating children's needs nor reach their parents' expectations. President Nixon must oppose the Child Development Act because in his words its laudable purpose is "overshadowed by the fiscal irresponsibility, administrative unworkability and family-weakening implications of the system it envisions." It creates an unmanageable prime sponsorship mechanism emphasizing small, divergent, neighborhood units rather than utilizing the general administrative strengths of state governments; state governments which because of their size and organization can effectively coordinate child care programs with other necessary programs including, among others, maternal and child health programs, institutional care and foster care programs, state child care programs, and Medicaid programs. Conversely, S. 2007 encourages a neighborhood-based system which would compete for, rather than coordinate with the above service systems. It encourages the creation of not hundreds or thousands of prime sponsors but of tens of thousands of prime sponsors.

Program quality must necessarily suffer because it will be impossible for the Department of Health, Education and Welfare to effectively monitor or provide technical assistance for this many prime sponsors.

It is indeed unfortunate that Congress, in its headlong rush to create law, threatens the concept of child care when it presently has before it H.R. 1, legislation promising a comprehensive, coordinated child care program—legislation which has been before Congress for 26 months—legislation which includes a request for $750 million annually in day care funds for the poor and $50 million for construction purposes. Rather than considering the merits and ramifications of the above legislation, Congress determined that a $2.1 billion program should be tacked on to a standard O.E.O. extension bill regardless of the fact that O.E.O. will not administer the Child Development Act if enacted.

A further disquieting indication that child care has not been comprehensively considered is found in the fee schedule philosophy of the Child Development Act. Whereas S. 2007 establishes a fee schedule providing free or nominal fees for child care for the poor (four

member family with a family income below $6960 per year).

Congress just approved the Conference Report on the Revenue Act of 1971, 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 as they wouldn't benefit from allowable itemized child care expenses because they normally use the standard deduction method of determining taxable 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 sponsored child care. At the very least the Senate must consider the total impact on the Treasury of the lost revenue through the Revenue Act amendments and the $2.1 billion additional expense of the child care portion of S. 2007.

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 contains his view of an O.E.O. program seeking to: "make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's ongoing effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress 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 O.E.O. to the head of any agency through FY 1973 unless a conforming provision of law is subsequently enacted. In the past, when an O.E.O. program matured to a point when it ceased to be developmental and commenced to be operational the program was "spun off" to other agencies in the Executive Branch through the exercise of the delegation authority contained in Section 602 (d) of the Economic Opportunity Act.

Section 10 frustrates the whole research and development concept of O.E.O. and effectively relegates it to the status of any other Executive operating agency. For the first time, a President and a Director of O.E.O. will be prohibited from delegating matured individual projects without Congressional control.

The language of S. 2007 further restricts the true developmental concept of our O.E.O. poverty concept by locking specific programs into earmarked expenditure levels. In the process of earmarking the $950 million in authorizations S. 2007 set appropriation levels for local initiative, alcoholism, emergency food and medical and community economic development so high that appropriations 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 earmar. ing serves not to further the poverty programs 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 re-writing of the Board selection process to guarantee an independent and politically free legal service corporation.

This administration's commitment to the poor is not suspect, President Nixon's veto message reflects his sincere desire to create a meaningful and effective program to honestly assist the nation's poor. I urge my colleagues to give him that opportunity by sustaining the veto and then working together for a truly effective poverty bill.

The PRESIDING OFFICER. Who yields time?

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 discombobulation of this question if I have ever seen it. Specifically, it is a matter of numbers.

H.R. 1 would double the welfare rolls to about 27.2 million people. There already are some 25 million people receiving Federal checks for social security and 2.6 million receiving unemployment compensation. Combining these groups, and eliminating the duplications that would occur in the senior citizens category, there would be at least 52.6 million Americans receiving Government checks. Then add the 83 million Americans below the age of 21, and we are left with about 69 million Americans in the working force.

We would have one-third of the population working to support the other two-thirds.

I have never believed in the concept of H.R. 1 which is to just throw money at the problem.

People say, "All right, what is the alternative? Here it is. It is exactly what the President vetoed. He seems invariably 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 tried to do 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 and saying, "Next year, we 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 is not a molding 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 medical survey in America and there are 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.

I would say to the Senator 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 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 factors 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 care of it, says this bill, is with 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. Finally, they get 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 for it now. When the President talks about a $2 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.

This is a well-studied program to get down to the problems we have perpetuated and compounded over the many, many years. The centers are run by parents, like a great American institution—the public school system with the PTA. Who said that is communal living? Who 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 lacking in agencies. 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 them.

We have the school lunch program. Agriculture says it now feeds 7.1 million—it is really about 6.3 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 attentatively making applause.

He is the one creating 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 comprehensive child care centers. 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 we need to start now. 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 give her money, 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 doubletalk 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 hope we 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 override 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 not be initiated 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 stop treating 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 85 percent 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 with 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 answer 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. MOSS. Mr. President, I have become convinced that consistency is no jewel in President Nixon's eyes.

He about-faces so often—makes 180 degree turns so frequently—that he keeps not only himself in a whirl, but 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.

Few of his actions have been more capricious and illogical, however, than his veto of S. 2007, 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 providing all American children 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. 2007. This title concentrates on the well being 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 damaging early handicaps borne by children of poor families. It provides nutrition, medical, dental, and services for these children, and psychological services for parents in child care and development.

What was President Nixon talking about in 1969 if he wasn't talking about these things?

Nor 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 would be available free to those with incomes of less than $4,300 a year—for a family of four—and a fees 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 on welfare would be required to take work, unless she had a child under two, provided day care services were available. How can we achieve the very desirable objective of reducing our welfare rolls by putting able bodied people into jobs which they can handle and giving them the dignity of work, unless we provide day care for 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.

To the President's contention 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 that sort of care now, 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 after long hearings and extensive committee consideration and work. It has wide support among groups who have devoted themselves for years to child care and development. Certainly it provides 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 from universally used, 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 do this will not want to use it. But for those children who are not getting this care—such a program will be a godsend.

Mr. President, I shall vote to override the President's veto of S. 2007.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. TAFT).

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAFT. I 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 poor and for the children, 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.

Promises are great, and so is oratory, but I do not think the children will be fed 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.

In all seriousness, let me say that I was sitting here, listening to much of this talk, and just speculating how, after 8 years of the Kennedy and Johnson administrations, we could have all of the poor and all of the children who are deprived in this country still in this shape and why, when the White House was in the control of the opposition party, we did not have this kind of program promoted, and why we have not moved today on the proposals made by President Nixon from the very outset of this administration to do something about these problems and do something about them in an effective way.

I voted for this bill as it came out of the committee. I warned at that time, however, that I felt the child development portions of the bill were ill-founded. I succeeded in getting taken out of the bill the children's advisory service proposal, on which no hearings whatsoever had been had in the committee. While many of the other proposals in the bill had been debated at great length in the committee and while there had been many negotiations and discussions about them in the conference committee, many are still highly experimental and unproved types of programs.

I joined in moving to send the bill to the House, hoping that many of these matters could be cleared up so we could have legislation that would improve the poverty program. It had the legal services provision in it, which was an improvement.

Unfortunately, the bill has not been improved at all. Insofar as the poverty program is concerned, we find we still have two stumbling blocks which are referred to in the President's message. I refer to the provision with respect to transferability of the program out of the agency which is supposed to be in the forefront of building this program, and going somewhere else.

So this one agency has been taken out from under the provisions of the Reorganization Act, and out from under the findings of the Hoover Commission so that it may make transfers under certain circumstances, with another agency coming out and completely defeating the basic purpose of the poverty program.

Then there was the categorical earmarking of certain funds for some programs. Certain favored programs got earmarking. This earmarking deprives the agency of flexibility in moving to other programs. It would deprive existing programs of funds which they might otherwise use if continued at the present level of funding.

Specifically, I would like to talk for a minute about the child development program, because I urged its separation. It is a challenging concept. I think it is one to which we ought to give careful attention. I think we should be moving 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 overnight. It just is 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 we are in a position 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 quickly 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 can leave the welfare rolls to go on the payrolls of the Nation are already provided for in H.R. 1, my workfare legislation.

Where is H.R. 1? Why has that not moved? It has been locked up in the committees 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. MONDALE), from the very beginning of the entire discussion of 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 fee, just 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 would somehow take it down to 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 of 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 revenue-sharing with the States and local 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 run 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 choice of the regional, State, or area 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 means the more the Federal control—the more priority 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 an awful lot better than 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 by passing this bill and starting on a 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 the President had said in his veto message that this legislation was designed to undermine the family, and designed to promote the communal rearing of children.

I believe that this 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 do that—this legislation reflects 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 do so, 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 9 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 warehouses 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 very least revolutionize 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, but I share fully 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 very heart of the matter by piercing 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 and financial aspects 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's concern ran deeper, 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. He 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 only administratively unworkable 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 all. It calls to mind the remark that Senator Heyburn 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 people would not dare to vote against it. Introduce a bill here for the protection of the children of the country and the title is such as to warn Senators against declaring themselves as not being in favor of that kind of legislation.

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 welfare of the Nation's children is inextricably 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 possibly in the long run redound to the benefit of children.

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

Mr. BUCKLEY. I cannot yield on my time.

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 deliberations 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 a bill will emerge that 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 controversy which characterizes professional opinion in the field of day care, and that the psychological and other risks of institutionalized child care will be discussed no less comprehensively than its putative benefits. Virtually all will agree that day care is necessary for the children of irresponsible or derelict 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 ardently opposed to, the idea of extending day care universally—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 action rather than 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 in it 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

to undermine 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 Senator's.

Mr. MONDALE. And who supported expanded, comprehensive day care services.

Mr. BUCKLEY. And who expressed the fears that, nevertheless, it might be converted, 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 such a supposition.

Mr. MONDALE. Would the Senator read the language to me that says families are inadequate?

Mr. BUCKLEY. It implies that in many places families alone are somehow 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 communal approaches to child rearing over 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 words—institutions 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 what is set in motion once we develop certain types of legislation—what pressures can be brought to bear and what bizarre results can be unleashed.

I refer the Senator from Minnesota to some remarks I delivered on the floor of the Senate on December 2, when I quoted extensively from Dr. Dale Meers, who certainly has qualifications in this field. My remarks reflect the understanding of many eminent child specialists 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 psychiatrists.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I wish we could yield more 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 because 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 at that time that 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 permit the degree of flexibility necessary to make these programs effective.

I regretted, also, that the bill contained a prohibition against the transfer or delegation of OEO programs. I believe OEO, if it is going to be successful, must continue to innovate. OEO, from its beginning, has 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 not be denied this right.

I think that one of the great disservices we have done to government at the local and State levels arises from the duplication and inadequate coordination of programs. I think, as a result, in many cases programs fall far short of their objectives. So I felt that this was a fault of the legislation.

I felt, also, that we were promising more than we could deliver. This perhaps is one of the reasons we have so much social unrest in our country. We promise much, but deliver little. The President has tried not to raise false hopes 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 administered.

The intimation has been made here this evening that this veto may be political in nature. I should like to refute that, if I might, by reading into the RECORD a telegram which I also had placed in 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 wired Representative PERKINS as follows:

> HON. CARL D. PERKINS,
> *Chairman, House Education and Labor Committee, House of Representatives, Washington, D.C.*
>
> DEAR CONGRESSMAN PERKINS: I have received your telegram concerning S. 2007 and, although I share your desire to continue Headstart, JOBS, the Job Corps, and the other worthwhile programs it includes, I cannot ask the Maryland delegation to support the bill. 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 coordinated State program of day care and early childhood development, this statewide approach would be effectively sabotaged by the conference bill.
>
> I would like to see the OEO programs continued, but I cannot support S. 2007 while it contains this feature so destructive of our comprehensive statewide program.
>
> MARVIN MANDEL,
> *Governor of Maryland.*

Since that time, I have had conversations 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 order to be successful, are going to require the cooperation of government at every level—at the Federal level, 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 can work effectively. Although 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 is 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 primary function of the family unit, with subsidiary roles delegated to religious and secular educational institutions.

Prior to undertaking a major program of this kind, the full implications of such a program should be given the most careful evaluation. Whatever we ultimately do in this area should act to reinforce the family unit and not substitute 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 without his approval the provisions outlined in the Economic Opportunity Amendments of 1971 recently passed by Congress.

As my colleagues are aware, this legislation embodied 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 Opportunity Act of 1964 entitled, "Child Development Programs."

Of the three, I least favored the child

development provision. In my judgment, the President has acted forthrightly in choosing not to accept this concept. Certainly, no one can deny the need to provide all American children the opportunity to develop healthy emotional and mental attitudes in their early years. Yet I seriously questioned the extent to which the proposal went to assure this goal. And I further questioned the necessity of creating yet another Federal bureaucracy to administer this program. Finally, since I favor the approach proposed by the President in his work-fare proposal, providing day care services to children of working mothers who would otherwise be forced to remain at home and accept welfare payments, it was my belief that deliberation on child care should have been postponed until full consideration of the President's proposal in the Senate Finance Committee had been completed.

With these views in mind, Mr. President, I voted for amendments to limit the authority of the local child development councils and to insure that those children living in poverty be given priority under this program. Unfortunately, however, these amendments were defeated, and Congress subsequently approved the bill with the child development provisions included.

An additional reason why I felt the timing on this proposal was regrettable was that it jeopardized the chances for approval of the National Legal Services Corporation, a concept which I have long favored as a means toward providing competent legal assistance to the indigent free of political or bureaucratic control.

Mr. President, we all are aware that this Nation is governed by laws, and not by men. Congressional authorization of an autonomous structure to house the highly effective legal services program currently administered by OEO was a reaffirmation of this principle, and I was privileged to have been a cosponsor of legislation implementing this idea.

It was unfortunate that debate over the composition and appointment of the Board of Directors developed during consideration of this proposal. Nevertheless, I continue to believe that in considering the makeup of the Board, we should insure that each member be as independent of political control as possible. It was in keeping with this principle that I supported the provision of a 17-member board composed of members appointed by the President as well as groups representing the Nation's legal establishment.

Mr. President, primarily because of my concern for the child development provisions of this bill, I have decided to sustain the President's veto. However, I do so in the sincere hope that Congress and the President can resolve their differences at an early date and enact legislation in keeping with the needs to which I have referred. Further delays will only bring disillusionment and despair to the millions of people who have benefited from the programs sponsored by the Office of Economic Opportunity. These programs deserve our continued support, and it is important that we consider new legislation as soon as possible.

Mr. HANSEN. Mr. President, I voted against the conference report on S. 2007, 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 appreciate the importance 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 the 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 a rider to 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 United States, I believe, are entitled to such thorough consideration.

It appears to me that, as presently written, the comprehensive child development program portion 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—any community 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 child care 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 salute the President for his courage 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 toward the long overdue redirection of our national priorities. The President, in vetoing the Office of Economic Opportunity authorization and its historical attempt to provide adequate 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 our awareness of the need to establish the fundamental right of every child in this land to constructive, planned day care to provide equal opportunity for success in later life. The President's remarkable statement that there was "no demonstrated need" for this legislation shows a total lack of understanding of the inequity of forcing some children and their parents to do without suitable day care.

As the author of the Universal Child Care and Child Development Act of 1971, the main provisions of which were incorporated into the vetoed legislation, I am particularly upset at the President's action. The President challenged the legislation on the grounds of "fiscal irresponsibility, 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 or not—the American woman is working. More than 42 percent of all American mothers with children under 18 work outside the home—9 out of 10 to satisfy an otherwise unmet 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 5.

The tragedy in this is that eight out of 10 of these children are cared for through makeshift arrangements—because we as a society 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 other than our own. 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 producing better citizens for 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 find it necessary to exist on welfare—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 into whole, humane citizens who can function in a democracy.

We can afford this program because of savings we will realize by not having to provide the children served 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 that helps remove people from current welfare rolls 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 $20 billion a year. Or that crime—including Government expenditures to deal with the problem, actual losses of property, estimated losses of earning power resulting 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 our neglect—crime and welfare—after the time for constructive action has passed.

Mr. PACKWOOD. Mr. President, as a longtime supporter of child development programs both in Orgeon 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 the legislative process is such that small differences are laid aside in the furtherance of the larger overall goals and objectives being pursued. My reservations aside, I supported S. 2007 at every step along the tortuous 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 firm belief that we in Congress owe it to the President of the United States to give a fresh look at this legislation in light of his strenuous objections.

Let my vote not be interpreted as opposition to either 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 child development program, which I have 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 the Presidency 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 the time I served as Governor, Oklahoma carried on a highly effective and progressive program under the able direction of Mr. Robert L. Haught, 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 subsequent veto action of President 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 operating agency. 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 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 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 obviously deliver."

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 unwilling to bring to fruition the initiatives which are vital to the future of our Nation.

I am frankly amazed at the President's action. By a stroke of the pen he has severely jeopardized the extension of the programs of the Office of Economic Opportunity which represent a unique means of closing the gap that still remains in our society between those 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 initiative 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 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 attorney to do what he considers to be in the best interests of his client.

And, finally, the President's veto has dashed the hopes and dreams of millions of American families that 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 parent and child alike would have 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 custodian services, has been identified as the top priority for the next decade 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 $4,300 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 so that all families 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 citizen out of poverty and into the great mainstream of American life. Our children provide us the greatest hope for reaching this goal. The President has let us down. The President has said that he does not care. I am at a loss to understand why. It is becoming increasingly obvious that President Nixon has decided 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. JACKSON. Mr. President, I believe President Nixon's veto of the OEO-child development bill was a cruel mistake. This action derails the most important piece of social legislation this session. 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 a decent, healthful, and 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 we should be trimming our sails, or reducing basic Government 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 have 5½ 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 him at his word. We passed a good bill.

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 and development effort is badly needed. 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 end of this fiscal year—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 to refer the bill back to committee with instructions to delete this from the bill. However, that motion was defeated.

The reason for my concern has been well pointed up 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 welfare reform legislation which is now pending in the Senate Finance Committee.

Headstart continues to perform valuable day care and early education services, and an important experimentation and demonstration function which identifies new techniques for aiding child development. Under the Social Security Act assistance is being provided for 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 integral part of welfare reform legislation 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 will be holding hearings on 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 about "priorities" around 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 our society.

Mr. DOLE. Mr. President, I plan to vote to sustain the President's veto of S. 2007, the Economic Opportunity Amendments of 1971.

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 aid 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 mandate to place the needs of the low-income populace 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 $20 billion annually.

We all support the goals of this legislation. But, until the 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.

As I see it, the President had no choice. He acted in the best interests of the American people by refusing to accept a measure which would have spelled 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 American family life.

The questions of poverty, of individual rights and of child welfare are crucial ones to the American people. The Nation deserves the concentrated, serious efforts of its legislators to establish and maintain Federal programs which will actually work; which will substantially relieve the inequities 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-encompassing 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 individual sponsors in communities 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 committed what I consider to be an error of judgment. He erased 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 which 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 primary reason for the veto was the comprehensive child development portion of S. 2007.

In his veto message the President attacked this legislation as "fiscal irresponsibility," "administrative unworkability," and "family-weakening implications."

Is it "fiscally irresponsible" to provide widows and poor families 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 us 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 in learning to live 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? It is this "forgotten American," especially, that we should not forget. The vetoed legislation would help him as much as 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 low- and 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 taxtakers, and because of intellectual 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 migrant and seasonal farmworkers, community action programs, Headstart, legal services, and neighborhood health centers.

The Senate on September 8, 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. Under this proposal 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. This is one of the most fundamental 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 the poor without political interference. The President's veto of the OEO bill, coupled with his lack of leadership in the fight to save the California rural legal assistance program, demonstrates an appalling 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.

In his 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 the bill (S. 2007), together with the message from the President of the United States expressing his disapproval thereof, be printed as a Senate document.

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

ORDER OF BUSINESS

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. SPONG) 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 on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees 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 conferees 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 Minnesota.

Mr. MONDALE. Mr. President, I want to make this point: This bill has been subjected, in the extreme rightwing 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 regard and commitment to the disadvantaged. It reflects once again a willingness to dismantle the remaining elements of the Office of Economic Opportunity, an intention that is present in its reorganization plans, in its incredibly inadequate budget requests, in its veto of this measure and in its threat to veto all other OEO bills which do 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 country. The 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 recommendations offered by the agencies 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 Law Schools, the National Bar Association, the Project Attorneys 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 people they serve. 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 prevent the independence of legal services the "independence" that he has paid lipservice to throughout this debate, and that is the only excuse for his opposition to this provision.

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 Presidential veto.

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 Governor 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.

There is absolutely no justification 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 commands.

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. 2007. And here it is perhaps even more depressing to realize the priorities that this President has in relation to providing services to the Nation's citizens.

Essentially, the child care provisions of S. 2007 tried to do for 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 resolve 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 regulations would have severely 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 2½ years issuing medicaid regulations to require health screening of children. And he still has not requested any 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. Day care and custodial care will be available under the President's welfare bill only to welfare recipients.

The family of four which earns more than $4,300 in most cases would be totally ruled out.

The President has evidently decided that only the very rich and the very poor shall be eligible for day care services.

I worked for passage of this bill because it offered a tremendous opportunity to help the children in the 5.5 million households 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 human 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 $2½ 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 program 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. My understanding is that he, 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 right. The second portion we should look at is, 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 there 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 impute 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, to try to get through 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 local areas are the ones that are required to be the prime sponsors, 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 on the floor. We still have that same setup which is 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 Economic Opportunity Amendments of 1971 for reasons I will soon enumerate—reasons which have impaired the legislation from its inception—reasons which went unremedied throughout the legislative process despite warnings 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 conferees and one House minority conferee.

The proponents of this legislation failed to heed or completely ignored protestations and reservations of 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 objections 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. 2007 creates an unmanageable admin-

istrative rathole—a rathole of empty promises—empty promises which will neither fill the participating children's needs nor reach their parents' expectations. President Nixon opposed the Child Development Act because, in his words its laudable purpose is "overshadowed by the fiscal irresponsibility, administrative unworkability and family-weakening implications of the system it envisions." It creates an unmanageable prime sponsorship mechanism emphasizing small, divergent, neighborhood units rather than utilizing the general administrative strengths of State governments; State governments which because of their size and organization can effectively coordinate child care programs with other necessary programs including, among others, maternal and child health programs, institutional care and foster care programs, State child care programs, and medicaid programs. Conversely, S. 2007 encourages a neighborhood-based system which would compete for, rather than coordinate with the above service systems. It encourages the creation of not hundreds or thousands of prime sponsors, but of tens of thousands of prime sponsors.

Program quality must necessarily suffer, because it will be impossible for the Department of Health, Education, and Welfare to effectively monitor or provide technical assistance for this many prime sponsors.

It is indeed unfortunate that Congress, in its headlong rush to create law, threatens the concept of child care when it presently has before it H.R. 1, legislation promising a comprehensive, coordinated child care program—legislation which has been before Congress for 26 months. H.R. 1 includes a request for $750 million annually in day care funds for the poor and $50 million for day care construction purposes. Rather than considering the merits and ramifications of the above legislation, Congress determined that a $2.1 billion program should be tacked on to a standard OEO extension bill regardless of the fact that OEO will not administer the Child Development Act if enacted.

A further disquieting indication that child care has not been comprehensively considered is found in the fee schedule philosophy of the Child Development Act. Whereas S. 2007 establishes a fee schedule providing free or nominal fees for child care for the poor—four-member family with a family income below $6,960 per year—Congress just approved the conference report on the Revenue Act of 1971, 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 as they would not benefit from allowable itemized child care expenses, because they normally use the standard deduction method of determining taxable 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-sponsored child care. At the very least the Senate must consider the total impact on the Treasury of the lost revenue through the Revenue Act amendments and the $2.1 billion additional expense of the child care portion of S. 2007.

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 contains his view of an OEO program seeking to—

> Make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's ongoing effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress 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 subsequently enacted. In the past, when an OEO program matured to a point when it ceased to be developmental and commenced to be operational the program was "spun off" to other agencies in the executive branch through the exercise of the delegation authority contained in section 602(d) of the Economic Opportunity Act.

Section 10 frustrates the whole research 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 a Director of OEO will be prohibited from delegating matured individual projects without congressional control.

The language of S. 2007 further restricts the true developmental aspects of our OEO poverty program by locking specific programs into earmarked expenditure levels. In the process of earmarking the $950 million in authorizations, S. 2007 set appropriation levels for local initiative, alcoholism, emergency food, and medical and community economic development so high that appropriations 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 programs, 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 politically free legal service corporation.

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 and effective program to honestly assist the Nation's poor. I urge my colleagues to give him that opportunity by sustaining the veto and then working together for a truly effective poverty bill.

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 tell me to whom to yield, I will yield time 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 Senator from California is recognized for 10 minutes.

HEARTLESS REBUKE OF AMERICA'S POOR AND AMERICA'S CHILDREN

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 Amendments of 1971, which passed the Senate by such an overwhelming margin Thursday of last week.

The fact of the President's veto of this vital legislation is bad enough, but even worse is his veto message which is an exercise in disingenuous rhetoric and political expediency.

With this negative act, the President has fulfilled the prophesy of so many in the poverty community that his overriding purpose is and has been to kill OEO or at least reduce it to a totally ineffectual agency.

It is true that OEO no longer operates most of the original war on poverty programs itself, and there is absolutely nothing in this bill which would alter those delegations and transfers of Economic Opportunity Act programs which have already been made to other agencies. Thus, the President's statement that under this legislation OEO would become an operational agency is totally erroneous. Rather, the provisions of the vetoed bill would have required only that OEO hold on to what few operational programs still remain in order to give it some force and vibrancy as an agency with at least a minimum of functional responsibility.

This is but the first example of the fallacious statements included in this irresponsible veto message.

Next, the President attacks congressional action in specifying the amounts 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 than present law. What the President really seems to object to is any significant congressional role in the legislative and appropriations process.

As I understand it, under the Constitution the Congress has at least coequal legislative responsibility, and I have always thought that it was the principal legislative branch of the Government. Apparently, the President disagrees. He not only wishes to exercise totally unfettered executive branch power—as is evidenced by his rejection of any significant congressional role in the field of foreign and military affairs—but also wishes now to write the laws 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 get 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 we should continue to exercise that responsibility to ensure that those programs which our constituents tell us have proven effective are maintained, and that poor people continue to benefit 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 bonanza.

If the Congress had not seen fit, in its wisdom, to include earmarking in the economic opportunity act the last several years, I believe there would be today no community action program, no emergency 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 people as a whole." What he means by this—and there can be no doubt about this—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 which 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. 1305). As far as I am concerned, and I have spoken to the principal sponsors of this legislation, both the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. MONDALE), the kind of politicized corporation the President wishes would provide greater opportunity for abuse than the present legal services structure within the OEO. For, under the President's puppet corporation, there would be an appearance, although no reality, of impartiality behind which the administration could hide while engaging in political 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 assistance an effective legal services program could not survive in this country.

Thus, I think it particularly appalling that the President has seen fit to cast aspersions 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 decrying their involvement in appointment of the board and in the incorporating trusteeship for the new corporation.

The President concludes his verbal gymnastics regarding the Legal Services Corporation by calling for a corporation "which places the needs of low-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 perpetrated 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 conclusion of my remarks a 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 so ordered.

(See exhibit 1.)

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 over against [sic] 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 has fished up 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, to 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 counsel which his domestic advisers 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 voted for the conference report to break up or weaken families or parental control over 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 with children, or other single heads of households with children, to leave 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 own way, is sure 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 speak from firsthand knowledge because the bill contains my amendments, on this score. Parents in child development programs would be given effective control of basic policymaking, funding, and personnel decisions at all levels of child development programing and would be urged to involve themselves directly in implementation of individual projects and programs.

Also, 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 intemperate attack on the child development program is pointed up by the relatively positive statements he makes about the Headstart program which 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 warehousing little children for 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 to work under H.R. 1. If a mother prefers to raise her preschool child, rather than to take a meaningless, demeaning job—and unlike the President, I think there are such jobs—how does it serve to strengthen the 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 that child should be cared for in a com-

prehensive, compassionate, healthful program of the type we would establish in the child development program the President condemns.

Perhaps the only really candid statement in the entire veto message, Mr. President, is the President's frank admission that the child development program in the bill "points far beyond what this administration envisioned when it made a 'national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life'" Judging by the administration's performance in carrying out the verbal commitment which the President first mentioned in 1969, the President's program is generally to talk about services to young children rather than to do anything about actually providing them. The record of default on such rhetorical committments is clear; time and again the administration fails to deliver its major spoken commitments, such as to a national literacy program.

This kind of talk-and-no-action posture seems contradictory to this administration's stated concern about not promising more than it can deliver. I suppose the administration distinguishes between speaking of so-called national commitments and developing and implementing any programs to carry out these commitments. thereby making certain not to raise anyone's expectations.

This is a policy of Madison Avenue manipulation which, I believe, displays a basic contempt for the intelligence of the American people.

What else does the President say he is for? He says he is for a number of initiatives which he credits to his administration to alleviate child suffering and deprivation.

He cites three examples, two of which were imposed on him by Congress accompanied by violent administration kicking and squealing. The first of these so-called administration "actions" is the expansion of nutritional assistance to poor children by the tripling of food stamp participants since 1969, and the doubling of child nutritional programs—such as school lunch and breakfasts—since then.

I am astonished that the President seeks to take credit for expansion of food stamp and nutritional programs which his administration has staunchly opposed and which resulted entirely from congressional initiative, led by my good friend from North Dakota (Mr. McGOVERN), who I suspect will have something to say on this score.

The President's capacity for posturing in the face of clear facts to the contrary seems boundless in view of the clear fact, of which I think everyone is aware, that the administration recently sought to cut back by 1 million—more than 100,000 in California—the children fed in the school lunch program only to be stymied in this heartless effort by a congressional outcry culminating in a resolution introduced and floor managed to passage by my good friend from Georgia (Mr. TALMADGE).

The second magnanimous administration initiative to which the President points is improved medical care for poor children through screening and treatment under medicaid. The facts are that the Department of Health, Education, and Welfare just last month issued regulations implementing provisions enacted into the Social Security Act in 1967 requiring individual State programs to be effective July 1, 1969—more than 2 years ago. Moreover, the administration regulations seem to dilute the congressional mandate by permitting States to eliminate from such screening and treatment programs children between the ages of 6 and 21 until July 1, 1973, fully 4 years after such screening, diagnosis and treatment was to become effective under the Social Security Act.

It is indeed a monumental piece of effrontery for the President to claim credit in these two areas in which his administration has been so restrictive and recalcitrant.

As to the third area, he cites effective targeting of maternal and child health services on low-income mothers who need them most. No one at HEW whom we have talked to has been able to explain what that means. As far as we can determine, there is absolutely no new direction in this program under the present administration.

Mr. President, there is a great deal more I could say about the fundamental unfairness and the basic injustice to the poor and disadvantaged in our land which the President's veto perpetrates.

I close by asking that each Senator who voted for the conference report now read this veto message and then decide whether or not the scandalous charges which the President has made are warranted. I believe that there is no question of the answer if each Senator will search his and her own conscience on this issue.

EXHIBIT 1

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Michael Kantor, *Executive Director.*

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Michael Sovern, Dean, Columbia University, School of Law.

Robert L. Spangenberg, Director, Boston Legal, Assistance Project.

Maynard Toll, O'Melveney and Meyers, Los Angeles, California.

The Honorable Cyrus R. Vance, New York, New York.

ACTION FOR LEGAL RIGHTS, INC.,
Washington, D.C., December 10, 1971.

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. Not content with a mere veto, the President insured, through bitter, misleading and illfounded comments in the veto message, that this country 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 OEO Legal Services Program. By making Legal Services lawyers independent from undue political incursions, 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 interest, might serve on the Board of Directors of the Corporation.

The President stated that he only had full discretion over six of the seventeen members of the Board. In fact, the President appoints all members of the Board in the Bill passed

by the Congress. Whereas the President's Bill did not insure the professional bar or clients would have had any voice whatsoever in the operation of the Corporation—the National Legal Service Corporation Act of 1971 insures that the Corporation is accountable to these groups.

The President's discretion and power to appoint are fully protected in the Bill. The selection process utilized is fully consistent with other private corporations authorized or funded by the Congress.

The President or his designees of the five major bar associations serve as trustees for the first ninety days after enactment. The President asserted this would somehow make the Corporation less accountable. Even a cursory reading of the legislation reveals that the trustee's power is strictly limited to the filing of the incorporation papers and the establishment of the Advisory Councils to the Corporation. Substantive policy issues must be left to the Board of Directors, who are, of course, appointed by the President.

Curiously, the National Legal Services Corporation legislation vetoed by the President was substantially more accountable to the American people than the Bill introduced by the Administration. In both the Bill adopted by the Congress and the legislation advanced by the Administration, all members of the Board of Directors must be appointed by the President and be confirmed by the Senate. However, the President's Bill called for three year appropriations which would have effectively insulated the Program from Congressional scrutiny on an annual basis. The National Legal Services Corporation Act passed by the Congress calls for yearly appropriations. The President's original proposal established permanent legislation whereas the NLSC Act of 1971 is only authorized for two years.

Again, the Congress exhibited much more sensitivity for the problems of accountability than did the White House. The Bill passed by the Congress gave the Government Accounting Office sweeping powers to audit and review the activities of the Corporation and its grantees. By contrast, the President's original bill limited the powers of the GAO in this respect. Finally, the NLSC Act of 1971 insures in three separate sections that legal services lawyers are professionally accountable. The President's bill barely addresses this question.

There are differences in the Bill passed by the Congress and the President's original proposal. However, the Congressional package was a compromise between the White House view and the Bill (introduced nearly two months prior to the Administration version) supported by a broad coalition of Republicans and Democrats in both the Senate and House. The National Legal Services Corporation Act of 1971 addresses various problems which concerned the White House including political activity of employees of the Corporation or its grantees, the outside practice of law by legal services attorneys the possible duplication of effort through the appeal process, representation of persons in criminal proceedings, and legislative activities of attorneys employed by grantees of the Corporation. Therefore, the Bill passed by the Congress substantially adheres to the concerns of the Administration.

In fact, the congressional compromise was worked out with the valuable aid and assistance of many leaders in the President's own party. The NLSC Act of 1971 was supported on the House and Senate floor at various times by the House Minority Leader, House Minority Whip, the Chairman of the Republican Conference in the House, the Senior Republican on the House Education and Labor Committee, the Senate Minority Leader, the Senate Minority Whip and the Chairman of the Republican National Committee. The Corporation vetoed by the President was similarly supported by every major national Bar Association in the country as well as a large number of state and local Bar Associations, labor unions, civic groups, and poor people's organizations.

The President was concerned that persons on the Board might represent or be involved with organizations which may be the recipients of grants from the Corporation. The Congress anticipated this program by mandating in Section 904(f) "That no member 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 then currently associated."

The President, in the final analysis, has used Legal Services for the Poor as cannon fodder 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 subjugation 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 am confident the Congress will 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, how does the time stand?

The PRESIDING OFFICER (Mr. HOLLINGS). 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 healthful 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 America's future. But the President has 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.

Bowing to the scare tactics 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 program is on direct parental involvement from the local to the national 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 weakening" tendencies in this program, when the real problem to be met is the crippling of little children in low-income families. The Headstart program, on which the child development program would build and whose vital accomplishments have been applauded across America, was launched to help these children overcome the educational, cultural, and health disabilities inflicted by poverty and social isolation.

I am amazed that the President could pronounce the child development program to be "plagued by administrative unworkability." The sponsors of this legislation, including myself, felt it was essential to have local administration of carefully planned and developed child care projects. That is the only way you can assure maximum parental involvement and responsibility for these programs. That is the only way that small communities in rural areas can meet the real needs of their children. That is the only way you can avoid the dangers and redtape of remote governmental control. And that is why the entire authorization of $100 million for the first fiscal year of this program is directed solely to planning, training, and technical 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 for 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 increase in the number of people living in poverty, to over 25 million, after a decade of steady and significant decline

in these figures, the President has undermined 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 conscience for this Congress.

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 Amendments of 1971.

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 undertook painstakingly to 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 particular reference to the President's veto message, so Members will understand the basis upon which I urge that the veto be overriden.

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 I introduced with 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 continue as the heart of the program, as far as the poor are concerned and which the President's message completely overlooks.

It is precisely this difference that 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 from lists 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 sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise 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 House 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 Judicial Conference of the United 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 the contrary, 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 next 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 "duplicative" and "redundant."

But H.R. 1 has not passed 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 compehensive system which may be the basis for a coordinated approach, linking S. 2007 efforts—which cover a broader socio-economic range—to those proposed under the family assistance plan.

Both are clearly needed; in the category of 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.

That "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 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 the family together while S. 2007 "appears to move in precisely the opposite direction" and that "good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children."

The administration's 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, with no exculpatory clause if child care is not available.

While the conference report on S. 2007 is replete with provisions designed to insure that responsibility for children continues to rest with parents and that parents contribute to and are involved in the formulation and conduct of programs. To cite a few:

Section 501(a)(2) states the finding that programs should be available only to children "whose parents or legal guardians shall request them."

Section 580 requires the Secretary to establish procedures to insure that no child be the subject of any demonstrated

effort unless the parent or guardian of such child is given an opportunity "as of right" to except such child therefrom;

Section 581 provides that nothing in the title shall "infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children;"

Section 515(a)(24) requires that comprehensive plans insure 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 a special committee to be established for recommending standards to the Secretary.

That there is no "adequate answer provided to the crucial question of who the qualified people are and where they would 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 516(a)(10) requires that—

Programs will, to the extent appropriate, employ, paraprofessional aides 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 and that "the States would be relegated 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 of government and insure a significant role for the States 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. JAVITS. I yield myself 5 minutes.

Mr. President, I wish to propound a number of questions to the manager of the conference report, the Senator from Wisconsin (Mr. NELSON), the 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 administration.

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 public or private nonprofit agencies or organizations may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out 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. JAVITS. 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, in that order; 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 also to prime sponsorship plans submitted by Indian tribal organizations, so that he must act first on its application, and can designate the State for the area if the Indian tribal organization fails to meet the requirements in the bill.

Mr. JAVITS. Would the Senator from Wisconsin (Mr. NELSON) please spell out 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 513(a)(2);

The plan provides that the Child Development Council shall be responsible for developing and preparing a comprehensive child development plan, section 513(a)(3);

The plan sets forth arrangements under which the Child Development Council will be responsible for planning, coordinating, monitoring, and evaluating child development programs, section 513(a)(4);

In the case of applicants which are units of government, the plan provides for the operation of programs through contracts with public or private agencies, section 513(a)(5);

The plan contains assurances that the Council has the administrative capacity to provide—itself or by contact or other arrangement—effective and comprehensive child related family, social and rehabilitative services, coordination with educational services, and health and other services, section 513(a)(6);

The plan also includes "adequate provisions for carrying out comprehensive child development programs in the area to be served."—section 513(b), (c), (d).

Mr. JAVITS. With respect to the last requirements, in determining whether the plan includes "adequate provisions for carrying out comprehensive child development programs," it is anticipated by the conferees that, in addition to other appropriate factors, the Secretary may make a judgment as to the capability of the particular applicant to carry out effectively comprehensive child development programs?

Mr. NELSON. The Senator is correct.

Mr. JAVITS. And by the term "comprehensive child development programs" do not the conferees expressly contemplate programs of high quality providing the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential?

Mr. NELSON. The Senator is correct. Sections 501(a)(2), section 571(3) and other provisions of the title make the meaning of that phrase clear.

Mr. JAVITS. So there is a responsibility with the Secretary to satisfy himself that any applicant, whether a locality, a combination, 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 qualities and standards for programs conducted under the title.

Mr. NELSON. Yes, subject to the qualification that whatever standards he may apply under these provisions are objective and applied to each case with an even hand; it is not intended as a license to develop standards such as population criteria which would have the practical effect of excluding a particular class of eligible applicants.

The Secretary's determination of the particular facts on which he bases his decision is conclusive if supported by substantial evidence. The conference agreement is explicit on this point, in section 513(h)(2).

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

Mr. JAVITS. I yield myself 5 additional minutes.

In summary, then, while the conference bill reflects the judgment that the Secretary should look first to locally run programs—in the interest of parental participation and other elements—the Secretary is not powerless to choose a State over a locality and he is granted ample flexibility and freedom 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. JAVITS. And is it also true that if none of the units of governments, 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 bypass provisions to fund programs directly, and a State, as well as any other public or private agency, could qualify as a grantee under that provision?

Mr. NELSON. Yes. Section 513 (j) and (k) so provide.

Mr. JAVITS. And am I correct that even in respect to areas where a locality or a combination of localities or an Indian tribe may be designated as prime sponsor, that the State is to have a significant role?

Mr. NELSON. Yes. The conference bill authorizes the Secretary to utilize up to 5 percent of the funds allocated for use in each State for activities by States, in the nature of technical assistance to localities, combinations thereof and Indian tribes including assisting in the establishment of child devel-

opment councils, encouraging the cooperation and participation of State agencies and the full utilization of resources, and developing information useful in reviewing prime sponsorship plans and comprehensive child development plans submitted by localities, combinations thereof, and Indian tribes. Section 513(a) and section 515(b)(3) require that the Governor have the right to review prime sponsorship plans and comprehensive plans, respectively, with the right in each case, to submit comments to the Secretary.

Mr. JAVITS. 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 prime 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 point, the conference report authorizes $2 billion in appropriations for child development care for the first year in which it is fully spelled out—to wit, fiscal 1973; $100 million is provided for fiscal 1972 for startup activities. It has been my understanding that the $2 billion authorization is intended by the conferees as a goal which we have established, without knowing what the total picture may be at the time of appropriation; for example, we do not know 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 respect to child development. It seems to me that is the essential substance we seek.

It is for those reasons I urge the Senate to approve it.

Mr. JAVITS. Finally the President states:

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 in the communistic 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 sensed 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, the President stated:

We hear you and will give you a chance. We are going to give a new chance to have more to say about 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 life and the life of your own community.

I submit that no matter is more deserving of handling at the community level than the matter of child development, for there can the family-centered approach be carried out, if the Secretary of Health, Education, and Welfare determines 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 some kind of broadened Headstart program. Indeed, Mr. President, if the words "child development" are objectionable, it is very significant that the President named his own office on that subject the Office of Child Development.

This very afternoon we made an important appropriation to it.

The objections taken, Mr. President, are simply objections which 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 the principal workers—in fashioning 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 Cabinet official—could place that 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 judgment, 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.

It seems to me a very superficial objection as compared with 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 overide, I would submit some compromise measure, picking up parts 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.

If 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 glorious monument to 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 to miss what was 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 overriden.

I ask unanimous consent that there be printed in the RECORD at this point a letter to the President dated December 7, 1971, from myself and a number of other Republican Members of the Congress, indicating why we felt that signing this bill into law was in the administration's as well as in 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 Conference bill, 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 that continuation will provide a stable framework in which the long term changes proposed by the Administration may receive full and objective consideration.

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 worked 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 early childhood education is one of the hallmarks of your 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 to the poorest of our citizens while at the same time providing for a socio-economic mix in child care facilities, with children from families above the $4,320 income level (the anticipated maximum income at which

a family of four would be eligible for assistance under Welfare 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 to reserve the major portion of funds for the very poorest families; the Conference rejected the provisions of the Senate bill which would have provided free services up to the income level of $6,960 for a family of four.

At this point, the chief obstacle in the way of final approval 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. The conferees believe that the Secretary of Health, Education and Welfare is granted ample flexibility and freedom to make reasonable judgments (such as choosing a state over a locality to run a program if such a decision can be supported with findings of fact) to ensure the comprehensiveness and high quality of care for children.

We wish also to emphasize most emphatically the voluntary nature of the program. The Conference bill is absolutely clear on this point: Each material provision of the bill contains the legally enforceable conditions that child development 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 each major respect.

The Conference bill adopts basically the provisions of the House bill which provides for a 17-member Presidentially-appointed board, rather than the Senate bill which significantly limited Executive prerogative.

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 that are essential to encourage self-help efforts, reducing welfare dependency and poverty. These include provisions for drug rehabilitation, manpower training programs, the aged, and minority enterprise.

We therefore consider it desirable in terms of the Administration's interests and objectives that the bill be favorably considered and signed into law.

Sincerely,

Jacob K. Javits, Clifford P. Case, Edward W. Brooke, Robert T. Stafford, Charles McC. Mathias, Jr., Ogden R. Reid, Edward G. Biester, Gilbert Gude, Marvin Esch, Frank Horton.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield the rest of my time.

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 that the House and the Senate could 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 today with preschool children work for a living. There are nearly 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 provide decent, supportive, stimulating day care centers for the millions of children who are left somewhere when the mother works.

The President pledged a program of this sort. The President's own 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 the veto.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DOMINICK. Mr. President, will the Senator yield to me?

Mr. JAVITS. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DOMINICK. Mr. President, I am going to be brief and final. I think most of us already have our minds made up. 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 one might think civilization 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 reasonable and fair poverty program—a program which can not be accomplished without some compromise. The people on the other side who are now asking us to override the President's veto have been unwilling to compromise such points of enormous significance, enormous significance 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 empty promises of S. 2007 will 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 will state the parliamentary inquiry.

Mr. JAVITS. Is a "yea" vote a vote to override the President?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And a "nay" vote is 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 West Virginia. 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 were present, they would vote "yea." 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 Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (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. MUNDT) are absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), the Senator from Maine (Mrs. SMITH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "nay."

The yeas and nays resulted—yeas 51, nays 36, as follows:

[No. 451 Leg.]

YEAS—51

Bayh	Hollings	Montoya
Bentsen	Hughes	Moss
Bible	Humphrey	Nelson
Boggs	Inouye	Pastore
Brooke	Jackson	Pell
Burdick	Javits	Proxmire
Cannon	Jordan, N.C.	Randolph
Case	Kennedy	Ribicoff
Chiles	Magnuson	Schweiker
Church	Mansfield	Sparkman
Cranston	Mathias	Spong
Eagleton	McClelan	Stafford
Fong	McGee	Stevens
Fulbright	McGovern	Stevenson
Hart	McIntyre	Symington
Hartke	Metcalf	Tunney
Hatfield	Mondale	Williams

NAYS—36

Aiken	Curtis	Miller
Allen	Dole	Packwood
Allott	Dominick	Pearson
Baker	Eastland	Roth
Beall	Ellender	Saxbe
Bellmon	Ervin	Scott
Brock	Fannin	Stennis
Buckley	Griffin	Taft
Byrd, Va.	Gurney	Talmadge
Cook	Hansen	Thurmond
Cooper	Hruska	Tower
Cotton	Jordan, Idaho	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, against.

NOT VOTING—12

Anderson	Gravel	Muskie
Bennett	Harris	Percy
Gambrell	Long	Smith
Goldwater	Mundt	Weicker

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 fails of passage.

ADDITIONAL STATEMENTS

THE INDIA-PAKISTAN WAR

THE ISSUES

Mr. SCOTT. Mr. President, the policy of this administration toward South Asia must be understood. It is neither anti-Indian nor pro-Pakistani.

Americans through all 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 working 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 various forms.

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 underdeveloped 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—principally 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 that developing 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 which caused the refugees to leave 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 in order to buy time for the necessary political evolution.

We committed $90 million for the support of the refugees in India and $155 million to avert famine in East Pakistan.

[NOTE.—The problem in India was to care for upward of 5 million refugees during this period. The problem in Pakistan was to avert famine for a province of 60 to 70 million people.]

The President requested the Congress to appropriate under the Foreign Assistance Act an additional $250 million to continue this work. He made clear that this would be supplemented by food shipment as necessary.

In short, the United States has committed or has in prospect some $500 million for the relief of refugees already in India and to prevent more refugees from coming into India, and to create a framework within which normal political and administrative life could return to East Pakistan.

This humanitarian effort by October had assured that there would be no provincewide famine in East Pakistan. There would be no new flood of refugees from hunger.

DEVELOPMENT ASSISTANCE AND MILITARY AID

At the same time, the administration did not support what was done in East Pakistan.

No new development assistance has been committed to Pakistan since March. All of the economic assistance committed has been for the purpose of relief in East Pakistan.

The administration also began the prospect of restricting military supplies immediately after the outbreak of fighting in March. The United States immediately suspended the issuance of any new licenses for munitions list exports and stopped the shipment of military supplies out of American depots that were under American governmental control. It stopped renewing old licenses. This immediately ended the prospect of some $35 million worth of arms in early April. In the months that followed old licenses progressively expired until the pipeline was dried up at the end of October. During these intervening months only some $5 million worth of spare parts were shipped to Pakistan on old licenses in commercial channels. There was no lethal equipment involved.

POLITICAL

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 essentially an internal 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 talking 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.

Diligence 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 major attributes which allowed him 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, incalculable violence was averted. Even 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 respect, Dr. 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 most common and seemingly simple 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 individual apart 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. Thurman L. Johns, Jr., died prematurely 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 whose lives were enriched by his friendship.

Johnny Johns was an American who did not take freedom lightly, nor was he a sunshine patriot. 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 Kathryn, and a kind and understanding father to Randy, Ricki, and Robin.

Mr. President, I ask unanimous permission to have printed in the RECORD two newspaper columns which are fitting tributes to an individual who was a great man in his small way. One of the columns was written by Mr. Orien Fifer, of the Phoenix Gazette; the author of the other is Mr. Paul Dean, of the Arizona Republic.

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

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 days of toil amid the sordid or exciting, or both.

I'll always remember the one time he really bluffed me 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 in draw poker I had two big 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 really had a full house, a straight or a flush.

Naturally I wasn't about to bet into a pat hand, so I checked. So did the others.

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 shrunk down in my chair, and everybody laughed.

It hadn't been too costly a lesson, but it was one that typified his skill.

He was a hard worker, a chap who knows the ropes of his job almost as well as the professionals with whom he had daily contact.

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. Then we started talking poker.

He said he had been in Las Vegas and had sat in on one of those steeper games where the house does all the dealing.

Those in the game were strangers.

"One of them," he said, "was an old woman who was using her pension check money. She was sharp. 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. Of course it took me about 25 minutes to find out how each of them played, and at the end of that time I was down about $30."

He sat and sat and sat, and at the end of a marathon session lasting several hours he came out ahead $3.

I forgot to ask him if he had pulled one of those monumental bluffs like he had worked on me.

He was quick, fast talking, and nobody ever wondered how he stood on any issue. He was outspoken in his own salty way.

I sat on some boards 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 produce obtained from his father's fields. He'd give it away.

His desk was only 10 feet from mine, and he was my friend.

Perhaps this is not the best way to pay tribute to him, but 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 never knows the admirable scratches his life is creating.

Neither money earned, nor money spent, is a measure of life. Social position is the shakiest indicator of human achievement. Power doesn't mean stature, respect is often the erstaz byproduct of fear.

Only when a life is done and a man has gone does 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 ability was demonstrated by performance, not 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 you 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 Damon Runyon back alleys, paused in its afternoon to say goodby to Johnny Johns.

Hundreds came to A. L. Moore & Sons Mortuary near the West Adams heart of Johnny's news territory. Memory Chapel was crammed, and even early arrivals found only wooden chairs at the rear. A second chapel was opened with closed circuit television relaying the service. Its back corridor was filled.

Federal judges and a justice from Arizona's Supreme Court came to mourn this man. Also the owner of a downtown pawn shop. Bob Macon, former boss, now press secretary to Gov. Williams, was there. So was a tattered old guy breathing fumes he picks up daily at Tom's Tavern a block away. What forgotten favor was he repaying?

Police Lt. Ed Langevin, the officer Johnny called "Glancy" read an obituary he had written for his friend.

Paul Blubaum and Larry Wetzel, Phoenix police chiefs past and present, looked at Johnny's closed casket but remembered his true image from the smiling photograph 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 pallbearers were uniformed Phoenix police officers and a DPS captain. His graveside escort was from the Marine Corps he had served on Iwo Jima and in Korea.

The newsmen Johnny had worked with, and many crime reporters he had competed against, were there. Attorneys. Television cameramen. Sports writers. Retired police officers. Public relations men. City editors, assistant managing editors, picture editors, columnists. Close family friends. Old poker playing buddies. One man who 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 died respected. Johnny had made his life's mark the best possible way. As an honest, concerned professional.

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 the result 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 translating 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 accomplishing this goal within the present decade. This will require firm 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 remaining or widening black-white gap, or an offsetting rise in related problems. Significant improvements in median income and employment among black families must be balanced against an increased gap between black and white families in actual dollar earnings, and an unemployment rate among blacks that is substantially higher than among whites.

A major increase in young adult blacks 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 top 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.

Infant and maternal mortality 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 rate of disabling illnesses.

Perhaps the most disturbing indicator is the sharp rise in family instability among blacks. The birth rate has continued to decline, but too often children are not living with both parents, and the mother must bear the full responsibilities of the head of household.

A second critical problem area is evident in the statistic that there are only 322,000 minority enterprises—less than 4 percent of America's business firms, and accounting for less than 1 percent of total business receipts.

But there has been 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.

These are some of the highlights of the statistics currently available on the black American today. My office has prepared a summary analysis of these statistics, based primarily on the report entitled "The Social and Economic Status of Negroes in the United States, 1970," prepared jointly by the Bureau of the Census, U.S. Department of Commerce, and the Bureau of Labor Statistics, U.S. Department of Labor, and issued in July, 1971—BLS Report No. 394; Current Population Reports, Series P–23, No. 38. 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 enterprise 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:

THE BLACK AMERICAN TODAY: CHANGES OVER THE PAST DECADE

1. POPULATION

a. Over half of America's black population (53%—down 7%) still lives in the South, but there has been a continued net annual out-migration of 147,400 (similar to 1950–60). About 39% of the Negro population is located in the North (up 5%, and 8% in the West (up 2%).

b. The black population has grown at a faster rate (20%) than the white (12%), and now stands at 11% of total population But by 1970, three of every five blacks lived in the central city of a major metropolitan area—and blacks constituted more than half the population of Washington, D.C.; Newark, N.J.; 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% to $6,279. This rise brought the median income of black families up to 61% that of whites—closing the gap, in terms of rate of increase, by 7% in only six years. (Previously, the level had been static at about 54%.) However, with the percentage increase in white family income being based on a higher income-level at the outset than that of the non-whites, the actual dollar gap, adjusted for inflation, between median non-white and median white family income increased from $3,251 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% in 1960 to 24% by 1970—a 267% jump. The proportion of white families earning more than $10,000 rose from 27% in 1960 to 49% in 1969—up 181%.

c. Over half of all blacks lived in poverty in 1960. By last year that proportion had declined to about one-third. The proportion of whites below the low-income level dropped from 18% to 10% 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 31% of America's poor today, are black, compared with 26% in 1960.

3. EDUCATION

a. In 1970, 56% of all young adult blacks 25 to 29 years old had completed high school, compared with 38% 10 years ago. By 1970, about 17% had at least one year of college. Young black enrollment in college almost doubled over the last five years, but it accounted for only 7% of total college enrollments in 1970. The proportion of blacks enrolled in college (one in six) is about half that of whites.

b. Functional illiteracy (less than 4 years schooling) among blacks over age 45 stands at 9%, but it is less than 1% among blacks aged 14 to 24. But in 1970, about 1 of every 7 black teenagers (aged 14 to 19) dropped out of school. And in 1970, the proportion of black high school age students who were two or more years below their modal grade (15.3% of males and 10.2% of females) was about three times that of white students.

4. WELFARE: FACT VERSUS MYTH

a. In 1969, the majority of people below the low-income level did not receive public assistance or welfare payments. In that year, about 45% of the low-income Negro families and about 21% of low-income white families received public assistance.

b. Six out of every ten Negro men, and five out of every ten white men, who were heads of low-income families, were employed.

c. 4.3 million non-whites (17%), and 6.5 million whites (4%), received public assistance.

5. EMPLOYMENT

a. Over the last decade, total employment of Negro and other races increased 22 percent (or 1.6 million). But white employment increased 19 percent, or 11.3 million.

b. Non-white employment in professional and technical occupations more than doubled (131%). There were substantial gains in non-white employment in sales (77%), managerial (67%), clerical (121%), and craft (67%) occupations.

c. The number of non-whites in private household, labor, and farm work declined, but at the end of the decade about two-fifths of men of Negro and other races remained in these occupations, a much greater proportion 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 worker earnings are relatively the highest, indicate 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.[1] Even in industries where Negroes are a large part of the labor force, they tend to hold only a small share of the highest paid jobs in large companies.[2] The Negro share of craft jobs is also fairly small, but in other middle pay level occupations their share is generally higher."

e. Blacks were 15% of all Federal Government employees in 1970, compared with 13% in 1965. However, they held only 3% of the higher grade jobs under the Federal Classification Act, 4% of the higher grade Postal Field Service jobs, and less than 10% of the Wage Systems (blue-collar type) jobs paying $8,000 and over in 1970.

f. The unemployment rate for non-whites as well as whites declined continually in the 1960's (although non-white unemployment remained double that of white). The sharp increase in unemployment in 1970 resulted in a non-white rate of 8.2% (versus 4.5% for whites.) Non-white teenage unemployment reached 29.1% (versus 13.5% among white youth—a rate almost identical to that of 1960). In 1970, the unemployment rate for Vietnam veterans of Negro and other races under 25 years old was 15%, and 7.5% for 25 to 29 year olds. Black teenage unemployment in the depressed areas of America's largest cities was estimated to have reached 41.2% in the spring of 1971.

6. HOUSING

a. The rate of black homeownership increased over the past decade. In 1970, two of every five housing units occupied by Negroes were owned by the occupant, compared with about 2 in every 3 occupied by whites. Non-white homeownership rates in 1970 were higher outside the central cities. (Total housing units occupied: Black—6.2 million; white—57.2.)

The more marked increases in Negro homeownership occurred in the North Central and South Regions.

b. There was a significant improvement in the condition of housing occupied by black families. Two of the 5 units occupied by non-whites in 1960 lacked some or all plumbing facilities; but this declined to 1 in 6 units occupied by blacks in 1970. However, Negro occupied housing units lacking basic plumbing continued to comprise a disproportionate share of all such occupied housing—almost 3 out of 10 of these substandard units, although blacks lived in only about 10% of the total occupied housing in the Nation in

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[1] 1% of higher paid jobs; 17% of lower paid jobs—in these nine industries where Negroes represent 8% of total employment. (1969.)

[2] 7% of higher paid jobs; 28 percent of lower paid jobs.

1970. This disparity was greatest in the non-metropolitan areas, and in the South.

c. Black households owning two or more automobiles rose 3.1% between 1967 and 1970 (to 13.4%)—compared with a 2.2% rise in white households (to 31.0%). Negro householders owning color TVs rose from 6.5% to 17.4%—compared with an increase from 18.7% to 40.1% in white households.

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 deaths dropped from 26.9 (1960) to 23.0 (1968) per 1,000 live births; and maternal deaths declined from 1.0 to 0.6 (per 1,000 live births). The 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 59.5 among families with an income range of $3,000 to $5,000 (vs. 68.8% 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 obtain a physician's care in a hospital clinic: Among lower-income families—21.5% (vs. 12.0% among whites); and among middle-income families—15.2% (vs. 8.1% of whites).

c. Non-white life expectancy for all age groups in the prime working years has declined slightly in the period 1960–68, 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—5.2 years less than his white counterpart. In 1968, this life expectancy had declined to 42.6 years, and the non-white—white age gap had increased to 6 years.

d. In 1969, persons of Negro and other races had a higher incidence of disabling illnesses than whites. Non-white restricted activity days averaged 15.7 (vs. 14.6 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 1961, although the non-white fertility rate continues to surpass that among whites. In 1968, there were 115 non-white live births per 1,000 women (aged 15 to 44)—the same rate as for whites in 1958; while the white birth rate was 82.

b. The birth rate among women of all races has been inversely proportional to their level of education and to their working status.

c. In the late 1960's the expected size of a completed Negro family (wife aged 30 or beyond) was 4 children, compared with 3 for a completed white family. However, both white and Negro women now in their twenties expect to have fewer children than women now in their thirties.

d. The number of non-white families headed by women has increased sharply between 1960 and 1971—rising from 0.9 million to 1.6 million non-white families (compared to an increase from 3.3 million to 4.4 million white families). In 1971, almost 3 out of every 10 non-white families are headed by a woman—compared with less 1 out of every 10 white families. Approximately half of all Negro women who are family heads are separated or divorced from their husbands.

e. While at family income levels of $10,000 to $15,000, nearly all children live with both parents in black as well as white families, the proportion drops sharply for families with incomes under $3,000—only about 24% of Negro and 44% of white children in families in this income group lived with their parents in 1969. Almost two-thirds of children in families headed by Negro women were in low-income families in 1969.

f. While the number of illegitimate births of Negro and other races per 1,000 unmarried women is much larger than the number for whites at every age level, it is significant that the overall non-white rate (except for the 15 to 19 year old group) declined substantially between 1960 and 1968 (for example, from 171.8 to 104.4 illegitimate births per 1,000 unmarried non-white women aged 25 to 29 years), whereas the white rate rose for each age group during the same period (for example, from 18.2 to 22.1 in the same 25–29 age group).

9. ARMED FORCES

a. On March 31, 1970, blacks made up 10% of the Armed Forces and 10% of those serving in Southeast Asia, but 13% of those who died in Vietnam combat (January, 1965 through December, 1970).

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 after their first tour of duty, compared with 9% of eligible white draftees. The reenlistment rate for young servicemen, who had initially enlisted into 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 of voting age, reported that they had registered to vote in 1970—a 10% increase over 1966, but a rise of only 1% in relation to 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 decline in the North and West in relation to total non-white voting age population. 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 rose 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 significant—rising from 33% in 1966 to 37% in 1970. White voter participation remained higher than for blacks in all areas of the country—the overall rate remaining virtually stable at 56%.

c. There has been a significant increase in the proportion of blacks elected to public office within the past decade. In 1962, there were only 4 black Congressmen. Today there are 13 black Congressmen and one Senator. And the number of blacks elected to State legislatures has increased from 52 to 198. There are now 81 black mayors and 1,567 blacks elected to other State or local offices—about half of them in the South. (The South, which had 53% of the black population in 1970, had 35% of the black State legislators, 58% of all black mayors, and 49% of other black elected officials.)

d. Most of the 1,900 black elected officials in the United States hold offices at the city level or hold law enforcement and educational type positions. The States with the largest number of black officials are Michigan, New York, Alabama, Illinois, and Ohio (all having at least 100 black elected officials).

11. MINORITY ENTERPRISE

a. Blacks today own only about 163,000 of the nearly 5 million small businesses in the United States. These are primarily in the service and retail trades and are very small. Primary problems confronted are undercapitalization and a need for management and technical assistance.

b. Minority groups now own about 322,000 business firms, about 4 percent of the total number of American enterprises. They account for only seven-tenths of one percent of the total business receipts in this country.

c. There are still only a handful of black-owned radio stations, no black-owned TV stations, and only a few black-owned newspapers of any size.

d. No additional black-owned insurance companies have been created in recent years; and there are still only a few minority investment banking institutions.

e. In 1969, dollar receipts for minority construction contractors totalled $947 million (half of which was accounted for by black contractors)—which was only one percent of the total receipts for all firms at $92.3 billion.

f. One black owned investment firm (Daniels and Bell) has been admitted to membership on the New York Stock Exchange.

g. 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 RECORD for November 22, 1971, I came across an article inserted by the distinguished Senator from Oregon (Mr. HATFIELD) on page 42723. The article, reprinted from the New Republic of November 13, 1971, was entitled "Scrub It Up, Don't Wipe It Out" and dealt with the Senate's consideration of H.R. 9910, the Foreign Assistance Act of 1971.

The author, in discussing the Senate's action on the Allen amendment to strike the ban on arms sales to Greece, indicates the amendment was rejected 49 to 31, when, in fact, it was accepted 49 to 31. I point out this discrepancy, Mr. President, because in this vote the Senate reaffirmed its support for Greece and recognized that such restrictions placed on military aid the United States provides its NATO allies are unacceptable.

THE FEDERAL RECLAMATION ACT OF 1902

Mr. HARRIS. Mr. President, I invite to the attention of Senators a recent Federal court ruling of historic significance to this Nation. The ruling, made last week by Judge Murray in the United States District Court for the Southern District of California, upheld a residency requirement of the Federal Reclamation Act of 1902 which has never been enforced. The requirement states that absentee landowners are not entitled to receive federally irrigated water. The purpose of the Reclamation Act of 1902—which also includes a provision limiting federally irrigated landholdings 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 the taxpayer, would accrue to economically viable homesteaders rather than land speculators or monopolists.

Unfortunately, because of corporate evasion and Government nonenforcement 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 Murray'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 the home of such corporate giants—with holdings of up to 12,000 acres—as United Fruit, Dow Chemical, Purex, Tenneco, and the Irvine Land Co.

Mr. President, it is long past the time to end the billion dollar water subsidies these giant corporations are receiving in violation of the law and at the expense of the independent farmer who is getting squeezed off the land. Judge Murray's decision is a welcome one for 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 corporate interests or for the small homesteader? The administration's past record on this subject leaves me with little reason to believe the small farmer will receive adequate support. Already the Nixon administration and the Justice Department have decided not to appeal an earlier court decision involving the Federal Reclamation Act which favored the large landowners. In that decision, Judge 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.

Mr. President, the Justice Department never explained publicly why it failed to appeal Judge Turrentine's decision. Mr. Peter Barnes, 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 Solicitor General Griswold to find out 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, the reasons for the Government's inaction, which meant, 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 have, 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 explanation of the Justice Department's decision. Professor Sax is perhaps the Nation's leading expert on water law.

Mr. President, it is inconceivable to me that this "law and order" administration would fail to enforce the 1902 reclamation law, and then fail to appeal a Federal court decision on the law when that decision favored large corporate landowners. Yet that is what has happened, Mr. President. And now we are faced with the distinct possibility that, unless the Congress speaks out clearly in support of America's family farmers, this administration will appeal a related case which rules against the large landowners. It is no wonder that small farmers are dissatisfied with the Nixon administration; it is apparent that their sympathies lie with the corporate giants that are driving small farmers off the land.

Mr. President, I introduced, with Senators BAYH, CRANSTON, and HART, a bill which would enforce the congressional intent respecting the Federal Reclamation Act of 1902. Now more than ever I think a bill such as this is needed. I ask unanimous consent to have it printed in the RECORD again with a copy of my remarks when I introduced it. I urge Senators to give it their careful consideration, and I invite their cosponsorship.

I also ask unanimous consent to have printed in the RECORD a copy of Judge Murray's decision upholding the residency requirement of the 1902 law.

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

[From the New Republic magazine, May 8, 1971]

WATER, WATER FOR THE WEALTHY

Not far to the east of the summer White House at San Clemente lies one of the most miraculous deserts in America, California's Imperial Valley. It's large (about 1¼ times the size of Rhode Island), hot (temperatures of 120° are not uncommon in midsummer), dry (total annual rainfall is barely three inches) and flat. It is also one of the richest agricultural areas in the world, producing $250 million annually of cotton, sugar beets, lettuce, alfalfa and other crops. What makes the Imperial Valley rich is water from the Colorado river, water brought through a network of dams and canals built by the federal government in the 1930s and '40s. Thanks to the imported water, what was once barren is now a grower's paradise, producing two or three crops a year.

This spectacular reclamation of desert wastelands would be an unblemished tribute to American enterprise were it not for an important fact: the beneficiaries are a small group of wealthy growers who hold most of their land illegally. Back in 1902, when Congress passed the Reclamation Act, it sought to assure that the benefits of federal irrigation projects would accrue to small homesteaders, not to land speculators or the holders of vast estates. The law stated unequivocally that landholders could receive federal water only for farms of 160 acres or less, and that in order to receive this water they had to live on, or very near, their land. In 1926 Congress strengthened the 1902 Act by providing that landholders owning more than 160 acres had to sell their excess land, at pre-irrigation prices, before they could receive federal water.

The railroads, land speculators and big ranchers have always opposed the Reclamation Act's anti-monopoly provisions, have never been able to persuade Congress to repeal them, and they've successfully got around them. Techniques of evasion have varied from region to region. Imperial Valley growers did it by persuading Herbert Hoover's Secretary of the Interior, Ray Lyman Wilbur, to sign a letter in 1933—days before the Roosevelt administration took over—expressing his opinion that the Imperial Valley was exempt from the 160-acre limitation. Wilbur's last-minute ruling was elicited 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 legal officer, who believed in enforcing the 160-acre limitation.

Wilbur's letter was merely an informal opinion, but it achieved the desired effect. Using the letter as its rationale, the Imperial Irrigation District (which distributes water and electric power in the Valley) for three decades bestowed its bounty upon landowners of all sizes and shapes, never forcing any one to sell his excess holdings. Today more than half the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Some of the holdings are as large as 10,000 acres; several belong to such agribusiness giants as Purex, United Fruit and the Irvine Land Company.

This concentration of rich, federally irrigated lands in the hands of a relatively few large landowners not only flies in the face of congressional enactments; it opens these landowners' bank accounts to vast unearned windfalls, all courtesy of the federal government and the taxpayer. The multiplicity of subsidies that accrue to the Valley's landowners is dazzling. First is the water subsidy. Hoover Dam, completed in 1935, cost $175 million; the All-American Canal, which carries water from the Colorado to the Valley, cost $30 million. Part of this mammoth investment comes out of the general treasury; the remainder is almost entirely repaid by electric power consumers in Los Angeles and other southern California cities.

Second is the labor subsidy. Between 1952 and 1964, million of *braceros* toiled in the Imperial Valley at wages lower than any others paid in America. Today thousands of Mexicans stream across the border each morning with blue or pink permit cards, compliments of the U.S. Labor Department. 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 pays millions to landowners not to grow crops. Thus: 500 large growers receive $11 million annually in farm subsidies, while 10,000 landless residents of the Valley must eke out an existence on welfare payments totaling less than $8 million.

By far the largest windfall is in the form of land appreciation. Irrigated land in the Imperial Valley is worth, conservatively, $700 an acre more than the same land would be worth without water. A landowner with 2000 acres thus gets a $1.4-million bonanza 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 once-desolate dust bowl reaping millions at the public's expense on acreage they never should have been allowed to hold in the first place. But it has been a precarious bubble, resting on the thin edge of nonenforcement of the Reclamation Act, and for a few brief years it appeared that 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. Political pressures were brought, but to no avail at the time. So the Imperial Irrigation District stalled; it refused to require growers to sell their excess land. The Interior Department could have cut off the district's spigot; it chose instead to seek a court order compelling the district to apply the law. The case dragged on for years. Last January a Nixon-appointed federal district judge in San Diego ruled in favor of the large landowners; he upheld Wilbur's letter and rejected Udall's

reversal. At that point the dispute became political: would the Nixon administration appeal the district judge's decision—a decision involving a vital principle of agrarian democracy, millions of the taxpayers' dollars, and the important question of whether executive department heads can blithely evade congressional policy? Or would the Administration, as the large landowners urged, allow the lower court decision to stand unchallenged?

Politically the landowners now had some powerfully placed friends: Governor Ronald Reagan, who strongly opposes acreage limit enforcement; Democratic Senator John V. Tunney, who supported the landowners' interests when he was a congressman from the Imperial Valley and continues to do so as a senator; Rep. Victor Veysey, the Republican who succeeded Tunney in the House; and not least of all, Richard M. Nixon, who assured Imperial Valley growers in 1949 when he ran for the Senate against Helen Gahagan Douglas that he would fight against acreage limitation.

Arrayed 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 of a chance. The California AFL–CIO, the National Farmers Union and a few other organizations urged appeal of the district court decision, but these are not the voices Nixon listens to. When it became apparent that the Administration would permit the lower court judgment to stand, 123 landless persons in the Valley, mostly Mexican-American farmworkers, sought to carry on the appeal themselves. The same judge who originally ruled in favor of the landowners turned them down on the grounds that because they were too poor to own land, they had no interest in the case. Finally, the 60-day period for filing an appeal expired.

Who in the Administration made the decision to preserve the Imperial Valley bubble, and why? Interior Department Solicitor 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 30 years of administrative practice; it was unfair for Udall to change the ground rules so late in the game, even if the ground rules were illegal (which Melich insisted they were not). Over in the Justice Department, which apparently made the final decision not to appeal, officials have been more evasive. Solicitor General Erwin Griswold took responsibility for the decision, but refused to talk to the press about it. 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 now that the threat of acreage limitation has been lifted, and small farmers, who have a hard enough time keeping up with the leviathans, will be squeezed even more. Had the growers been required to sell their land in excess of 160 acres at pre-water prices, the appreciation brought about by federal expenditures might have accrued to some of the less affluent residents of the Valley, and to the public itself.

Nixon's inaction will also cause million-dollar ripples outside the Imperial Valley. The San Diego decision against the 160-acre limitation now stands as a legal precedent; growers and speculators in other reclamation areas will use it to protect what they're already accumulated and to get their hands on larger holdings of both land and water. The Irvine 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 river water. Enforcement of the 160-acre limitation or the residency requirement would instantly wipe out the speculative gains of the Irvine Company, the Southern Pacific Railroad, Standard Oil of California, Tenneco and dozens of other giant landholders in the West. The Justice Department says that its decision not to pursue the Imperial Valley appeal has no bearing on these other vast holdings. Clearly, though, it does. It means that none of these enormous 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. Turrentine of San Diego issued the ruling on January 5, 1971, in the Justice Department's 1967 suit against the Imperial Irrigation District.

The deadline for appealing the decision 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 had filed the civil suit seeking 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. STOVER,
Manhattan, Kansas.

DEAR MRS. STOVER: Your letter of May 28 has reached me this morning. Until it came, I had not seen the article in the New Republic. You are the first one who has brought it to my attention. I have now located a copy of the issue of the New Republic for May 8, 1971, and have read the article with interest.

As so often happens in these matters, it is a one sided presentation of a rather complicated situation. You would not know from the article, for example, that the project for the irrigation of the Imperial Valley was started about 1900 and was virtually completed by 1920, without any participation by the federal government. It was an expensive project, and it was natural that there were large land holdings there.

When the Imperial Valley was developed, the water from the Colorado River was brought in by a canal which ran for a number of miles through Mexico. This led to a number of problems. About 1930, in connection with the development of Boulder Dam, a new All-American Canal was built. This was entirely in the United States, and was undoubtedly an advantage for the Valley. However, the All-American Canal did not result in the reclamation of a single acre of desert land. After the All-American Canal was completed, there was no more land in cultivation in the Imperial Valley than there had been for many years before.

It is true that there is a provision in the reclamation laws which provides that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres. However, as I have indicated, no land was reclaimed by the construction of the All-American Canal. It is, thus, a real question as to whether the acreage limitation in the reclamation laws is applicable to the Imperial Valley.

This question was considered and determined by the Secretary of the Interior, Ray Lyman Wilbur (previously President of Stanford University) in 1933, now more than 38 years ago. That determination was acted on, and relied on, for many years, and no question was seriously raised about it until about 30 years after Secretary Wilbur's decision.

Recently, the issue was submitted to a court, and the court decided that the acreage limitation does not apply to Imperial Valley. It then became my responsibility to decide whether an appeal should be taken from that decision. I considered the matter carefully and thoroughly, and over a considerable period of time. As a result of my consideration, I became convinced that (a) we would not win the case in the court of appeals, and (b) we should not win it. In this situation, I came to the conclusion that it was my duty as a responsible officer of the government not to authorize an appeal.

In making that decision, I issued a statement saying that my determination was applicable to the Imperial Valley only, since that was the only place that had this sort of a history. The statement by Peter Barnes in his article to the contrary is entirely without foundation. As I have indicated, my determination with respect to the Imperial Valley (and Secretary Wilbur's determination 38 years ago) was based on the fact that the Imperial Valley was fully developed long before any federal money was spent to build the All-American Canal. The federal project did not reclaim any land in the Imperial Valley. Thus, the determination with respect to the Imperial Valley has no application to other projects where there was actual reclamation of land as a result of the project.

Very truly yours,

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1, 1971.

Hon. ERWIN N. GRISWOLD,
Solicitor General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR GENERAL GRISWOLD: Someone sent me a copy of a letter that went out under your signature, dated June 1, 1971, to Mrs. Stephen L. Stover of Manhattan, Kansas. The letter inquired about the position of the Justice Department in the excess land case involving the Imperial Valley in California.

As one who has written about the Reclamation Law, I was surprised to see in your letter the following:

". . . there is a provision in the reclamation laws which provide that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres . . . . no land was reclaimed by the construction of the All-American Canal."

Occasionally one recalls the warnings he received in law school, among them the danger in paraphrasing statutory language. My recollection is that the excess land provision of the Reclamation Law, 43 U.S.C. Section 431, says:

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 the excess land law to land "reclaimed through a federal project," and if you examine the legislative history of the statute, you will recall that Representative Newlands, the sponsor of the Act, took no such view. 36 Cong. Rec. 6734 (1902). Of course a great many reclamation projects involve the supply of supplementary water to land already in cultivation. To the best of my knowledge it has never been thought that this fact exempted the project from the provision of the excess land law.

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. BAYH, Mr. CRANSTON, and Mr. HART):

S. 2863. 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 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. BAYH, 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 irrigation is essential to American agriculture, wisely chose to make a public investment in irrigation when they passed this historic 1902 act. Just as wisely, they sought to assure that the benefits of Federal irrigation projects—which would literally transform desert wastelands in the West into the richest agricultural areas in the world—would accrue to small homesteaders rather than land speculators or monopolists. The Reclamation Act stated that landholders could receive federally subsidized water for farms of 160 acres or less, or 320 acres in the case of a man and wife, provided that they live on, or very near, their land. In 1926, Congress strengthened the 1902 act by providing that any federally irrigated holdings in excess of the 160-acre limitation had to be sold within 10 years at preirrigation 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 stifling farm competition and in tapping the Federal Treasury for subsidies. One hundred and sixty acres of prime irrigated farmland, or 320 acres in the case of man and 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 resources, 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 boundless public domain. . . But the time will come when this heritage will have been consumed, this safeguard will have vanished. You will have your crowded Birminghams and Manchesters, and then will come the test of your institutions.

Congressman Oscar W. Underwood of Alabama, who was instrumental in the passage of the Reclamation Act sounded this same theme when he pointed to the decline of free land and the beginnings of 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. It (the Reclamation Act) gives them a place where they can go and build homes without being driven into the already overcrowded cities to seek employment.

It will provide a place for the mechanic and wage-earner to go when the battle for their daily wages becomes too strenuous in the overcrowded portions of the East. . . . If this policy is not undertaken now, this great Western desert will ultimately be acquired by individuals and great corporations. . . .

I believe the passage of this bill is in the interest of the man who earns his bread by his daily toil. It gives him a place where he can go and be free and independent; it gives him an opportunity to be an owner of the soil and to build a home. These are the class of men we must rely on for the safety of the nation. In times of peace they pay the taxes and maintain the Government; in times of peril and strife they are the bulwark of the nation, and it is justice to them that this legislation be enacted into law.

And President Theodore Roosevelt, who signed the Reclamation Act into law and insisted upon its 160-acre provision, said:

We have a right to dispose of the land with a proviso as to the use of the water running over it, designed to secure that use for the people as a whole and to prevent it from ever being absorbed by a small monopoly.

Mr. President, those men were fighting to carry out the Jeffersonian vision of agrarian democracy. They wanted to see an America peopled by prosperous and independent men, free of the control of the baronial landed classes.

Today, nearly two centuries after Jefferson and 70 years after the passage of the Federal Reclamation Act, agrarian democracy exists only as a myth. America's land, once publicly owned, and the federally financed water used to irrigate much of it, are illegally in the control of large land interests.

Not surprisingly, Mr. President, the large land interests in this country have always opposed the Reclamation Act's antimonopoly provisions. The railroads, land speculators, and giant agribusinesses have employed various strategies to get around the 160-acre limitation. What is surprising is the Federal Government's acquiescence in what amounts to a giant land steal and a raid on the public treasury.

Federal reclamation has delivered water to 8 million acres with an annual crop value of $1.7 billion. Congress has appropriated or authorized spending $10 billion on reclamation projects. The amount of the subsidy to Western landowners for irrigation has been estimated to range from $600 to $2,000 per acre.

This money, supplied by the average taxpayer, is buying water for hundreds of thousands of acres of land owned by giant corporations while independent family farmers have not been able to get access to irrigated land. California—the home of the giant agribusinesses—provides a typical example of where the taxpayer's money is being spent. California's Imperial Valley produces about $250 million annually of cotton, sugar beets, lettuce, alfalfa, and other crops. What makes the Imperial Valley so fertile and productive is water brought from the Colorado River by a network of dams and canals built by the Federal Government at a cost of over $200 million.

Because of the Government's outrageous record of nonenforcement of the Reclamation Act, more than half of the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Agribusiness giants such as Purex, United Fruit, and the Irvine Land Co., which owns 10,000 acres in the valley, are reaping huge profits because of the water subsidy. Federally subsidized water is also being delivered to lands in California owned by Tenneco Getty Oil, Standard Oil of California, and the Southern Pacific Railroad.

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, family farmers who have been disappearing from rural America at the rate of 800,000 a year.

I do not think 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 land, when our cities are on the verge of 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, could be the beginning of a national rural policy. The emphasis of that policy is to serve people and the public interest, not a few large corporations.

The bill, which has been introduced in the House of Representatives by several California Congressmen, requires the Federal Government to buy "excess" land at a preproject market price and to lease or sell it at a postproject market price. This mechanism is greatly preferable to a simple enforcement of the 1902 law. For in that case those purchasing the land at the preirrigation prices called for in the law could receive the enormous windfall now in the hands of the giant corporations.

The American taxpayer has built and paid for the irrigation system that has made our land in the West so valuable. 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 already existing land and water conservation fund. The remaining 20 percent of the fund shall be made available upon specific appropriation by Congress for the development of public facilities servicing project areas, for promoting economic opportunities of veterans and persons living in substandard conditions and for such environmental and ecological benefits 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 sold, leased or made available for 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 planning of land usage and environmental adjustment in the areas where excess lands are located."

Mr. President, the Reclamation Lands Act provides the chance for us to rekindle the spirit that made America the land of opportunity. This bill would give the independent 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—the strength of any free society—with funds created by public water and land development. And it would mark the day when Americans realize that our limited land and water resources cannot be left in the hands of big business.

I would hope that each 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 Interior Committee will be able to hold hearings on this proposal in the near future.

Mr. President, I ask unanimous consent that at this point the text 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. 2863

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

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 make such disposal and uses of these 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 revenues from the sale or lease of said excess irrigated or irrigable lands to the demonstrated needs of public education and community development, and for other purposes consistent with the historic purpose of the Federal reclamation law.

SEC. 3. To effect these expressed purposes 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. 388) 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 land as prescribed in the Federal Reclamation Act of June 17, 1902 (32 Stat. 338), as amended and supplemented, the Authority shall be an independent agency responsible to the President, and subject to all laws pertaining to accountability and report. It shall be directed and its activities managed by a Board of three members, appointed by the President by and with the consent of the United States Senate. Their terms shall be staggered, in such a manner as to provide an eight-year term for the designated Chairman, a five-year term for one member, and a three-year term for the other member. They may be reappointed. Their salaries shall be fixed by the President in keeping with the accepted schedule of remuneration for heads of important Government agencies. The Board shall organize itself and its operations, shall select its officials, agents, and employees in keeping with Civil Service standards and practices and said employees shall be included in the Federal roster to share in all legal benefits of Federal Government employment and to be subject to such requirements as to ability and conduct as are thereby prescribed.

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 purpose of the Act. Such a listing and 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 the necessary bylaws, orders, rules and regulations required to effectuate the will of Congress as expressed in this Act.

SEC. 8. The Authority shall have such powers as are conferred on Government corporations generally, and specifically shall have the power of eminent domain. 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 real and personal property as it deems necessary or convenient in the transaction of its duly authorized business, and may dispose of any property, real or personal, to which it has title according to its authority under this Act.

SEC. 9. In the development of its purpose and the exercise of its duties, 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 law, and in the case of subordinate officials as the Board shall determine.

SEC. 10. Any member of the Board may be removed from office at any time by the passage of a concurrent resolution of the Senate and House of Representatives, said concurrent resolution stating in specific terms the reason for such action.

SEC. 11. The powers of eminent domain residing in the Board by this Act shall extend to the purchase of any real estate or acquisition of real estate by condemnation proceedings, the title to such real estate being taken in the name of the United States of America, and thereon all such real estate shall be entrusted to the Authority as the agent of the United States to accomplish the purposes of this Act.

SEC. 12. There is hereby conferred upon the Authority all of the powers now residing in the Secretary of the Interior to enforce all 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 and supplementary thereto as these apply to the limitation of size of farms to be served by and under provisions of Federal reclamation projects.

SEC. 13. The Authority is hereby authorized and directed to acquire by purchase, eminent domain proceedings, or otherwise, all excess lands in projects governed by Federal reclamation laws at preproject prices as defined in section 46 of the Act of May 25, 1926, and to deposit the proceeds from the sale or lease or use of such lands in the Treasury of the United States in a specially designed "Education, Conservation and Economic Opportunity Fund" which is hereby created to be used exclusively for the purposes of this Act.

SEC. 14. The Authority shall purchase all excess lands at preproject prices which do not reflect the benefits of the Federal financing or construction. The proceeds from the sale, lease, or use of such lands shall be paid into the "Education, Conservation, and Economic Opportunity Fund," and are to be used for the purposes of this Act and administered for said purpose by the Board.

SEC. 15. The Education, Conservation, and Opportunity Fund shall 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 at pre-water-project prices, together with such moneys as Congress may appropriate for deposit in the fund for the purchase and management of excess lands, shall be available to the Authority for further purchase of excess lands. Ten percent of the balance in the fund remaining thereafter shall be transferred to the Land and Water Conservation Fund already established by the Congress to be used for purposes consonant with those of this Act, and an annual accounting shall be made to the Authority by said fund and made a part of its 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 agencies specified by the Congress. The remaining allocable amount in the fund made available for public purposes under the Act shall be made available upon specific appropriation by the Congress for the development of public facilities serving project areas, for advancing economic opportunities of veterans and persons living in substandard conditions, for development of healthful environments and communities needing open spaces, and for such other environmental and ecological benefits as Congress may authorize to be made 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 and in other respects preserve an environment of beauty, health, and attractive quality for now and for the future. In determining as between sale, lease, or public use of excess lands purchased, the Authority shall give due weight to benefits to the revolving fund and the advancement of economic opportunity for persons who have served the Nation in the Armed Forces and disadvantaged citizens seeking such opportunity as ownership, lease, or use of irrigated or irrigable lands afford. In the pursuit of these purposes, the Authority shall encourage effective regional, State, and local planning of land usage and environmental adjustment in the areas where excess lands are located.

SEC. 17. In the exercise of its charter under this Act, the Authority is herewith author-

ized 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 unit of 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 to which it shall appoint citizens who neither have nor represent vested interest in excess lands purchased or in the water brought to such lands. The Authority may service such an Advisory Committee and provide for the expenses thereof. Committee members shall serve without remuneration.

SEC. 19. There is hereby authorized for appropriation an amount as may be necessary from the general fund of the Treasury for deposit in the revolving fund designated as the "Education, Conservation and Economic Opportunity Fund" of this Authority, for the purposes of this 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 excess lands such amounts out of the Education, Conservation and Economic Opportunity Fund as are available and needed by the Authority to carry out the intent and purposes of this Act.

[In the U.S. District Court for the Southern District of California]

BEN YELLEN, ET AL. VS. WALTER J. HICKEL

(Partial summary judgment No. 69–124–Murray)

Before the court is a motion for partial summary judgment. The suit was filed under 28 U.S.C.A. 1361 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. 389, 43 U.S.C.A., Section 431,[1] against lands 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 May 25, 1926, 44 Stat. 649, 43 U.S.C.A., Section 423e,[2] and therefore the residency requirement does not apply. For the following reasons this court finds that Section 5 is 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 defense of this motion. A motion to dismiss for lack of standing to maintain a suit was denied at the same time as the previous motion for summary judgment, thus there is no need to rule on that question at this time.

The Boulder Canyon Project is authorized and governed by the Boulder Canyon Project Act of 1928, 45 Stat. 1057, et seq., 43 U.S.C.A., 617 et seq. Under Sections 12 and 14 of that Act (45 Stat. 1069 and 45 Stat. 1063) the project is governed by the June 17, 1902 Act and "Act amendatory thereof and supplemental thereto." 43 U.S.C.A., Sections 617k, 617m. The question which concerns the court is whether Section 46 of the Omnibus Adjustment Act has so changed the original 1902 Act as to eliminate the residency requirement contained therein.

The government argues that under Section 46 of the 1926 Act the Secretary no longer is authorized to sell water directly to landowners on projects built thereafter. Instead, Section 46 requires the Secretary to contract with irrigation districts for delivery of water and repayment of the project and these contracts are required to impose certain conditions to which landowners must conform.[3] Since none of these conditions include a residency requirement it is argued that the effect of Section 46 is to eliminate any residency requirement from all reclamation projects governed thereby. This argument proves to be incorrect when viewed in the light of sound statutory construction and the background and purpose behind both Section 5 and Section 46.

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, effect should be given to both if possible. *United States* v. *Borden Co.*, 308 U.S. 188, 198. Further, repeals by implication are not favored and the intention of the legislature to repeal must be clear and manifest. Even when there is a positive repugnancy between the provisions of the new law and the old law, then the old law is repealed only *pro tanto* to the extent of the repugnancy. *U.S.* v. *Borden*, supra.

Statutory construction of Section 5 and Section 46 reveals no repugnancy whatever. Section 5 requires that there is no right to use water on tracts of any one owner of over 160 acres and no water shall be sold to anyone not occupying the land or residing in the neighborhood. Section 46 establishes a system whereby the Secretary no longer sells to individuals, but to irrigation districts instead, and provides for a situation 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. There is no inconsistency in applying the requirements of Section 5 at the same time with those of Section 46. The latter merely provides for sale of excess lands over 160 acres if the private owner wants reclamation project water. Section 5 requires that he be a resident to get water at all. A literal reading of both statutes then reveals no implied intent on the part of Congress that the earlier statute would be repealed by Section 46. Since both can stand by reasonable construction, that construction must be adopted. *Wilmot* v. *Mudge*, 103 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 423–423g of this title is the rehabilitation of the several reclamation projects and the insuring of their future success by placing them upon a sound operative and business basis, and the Secretary of the Interior is directed to administer said sections to those ends."

The report on the House version of the bill H.R. 10429 prepared by the Committee on Irrigation and Reclamation refers to the reclamation policy of the government which was adopted as a result of the Act of June 7, 1902. The report points out that while the law had provided that the cost of projects be returned to the reclamation fund, settlers had been unable to do so in full and therefore it would be necessary to authorize the Secretary to credit the projects with losses sustained. Then the report continued:

"It is confidently believed that with the adjustment authorized herein the various projects will be put on a basis which will restore the morale and enthusiasm of the settlers and enable them to meet their payments promptly in the future. The settlers on these projects have endured great hardships and have struggled against the most adverse conditions in their effort to cooperate with the government in reclaiming these desert wastes, and are entitled to the proposed relief which has been urged upon the committee by the Representatives from the arid land States and the Secretary of the Interior for many years." See Adjustment of Water Charges, House Report No. 617 to accompany H.R. 10429, 68th Cong. 1st Session.

It is clear from the report that the purpose of the 1926 Act was to provide relief to settlers then residing on the land. There is no indication that the Act was intended to change the policy of the reclamation law.

The government has cited Section 1 of the Act of August 9, 1912, 37 Stat. 265, 43 U.S.C.A. 541 as additional support to the contention that residence is no longer intended as a requirement for water rights under reclamation law.[4] That law requires that homestead entrymen submit proof of residency, reclamation and cultivation in order to obtain a patent while purchasers of water-right certificates need only prove cultivation and reclamation of the land for a final certificate.

This it is argued is evidence that residency has been eliminated as a requirement to receiving water. It is evident that Congress intended the Act to apply to purchasers of water rights for private lands as well as to entries of public lands. See House Committee on Irrigation of Arid Lands, Patent to Entrymen for Homesteads Upon Reclamation Projects, House Report No. 867 to accompany S. 5545, 62d Congress, 2d Session, and I Department of Interior, Federal Reclamation Laws Annotated 15 (1958). However, there is no indication that the residency requirements of Section 5 was intentionally eliminated.

In the West water and land are separate and ownership of land does not automatically give right to water use. This is reflected in the homestead laws where water rights are reserved from patents. See 43 U.S.C.A. 661 as derived from 14 Stat. 253 and 16 Stat. 218. This explains why the patent and the water certificate were treated separately in Section 1 of the 1912 Act. The patent is a right to land—ownership in land. The certificate is evidence of a right to water subject to divestment for failure of application to beneficial use. See U.S.C.A. 372, 32 Stat. 390. However, the nature of the water right is not expressly delineated in reclamation law. The water right certificate describes the land upon which the water is to be used, the amount of water use allowed and aids in establishing priorities under state laws. Neither the reference to water rights in the 1902 Act, nor that in the 1912 Act make clear just what the user has, either before or after receiving the final water rights certificate. It is important to note, however, that reclamation laws are "designed to promote federal policies of permanent importance and not merely to secure an investment interest." II Sax, Waters and Water Rights, 118 (R. Clark ed. 1967).

That land and water are separate also helps explain why each is treated differently in Section 1 of the Act of 1912. The purpose of the Act of 1912 was to enable the settler to mortgage his property prior to final payment for the amount due for the water right. See Title for Homesteaders on Reclamation Projects. Senate Report No. 608 to accompany S. 5545, 62d Congress, 2d Session. The water certificate was property right of sorts even though a defeasible one. It represented an incremental value of the price of the private

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Footnotes at end of article.

land and as such was an asset which added to the mortgageable value of the land. See Sax, *Selling Reclamation Water Rights: A Case Study in Federal Subsidy Policy*, 64 Mich. L. Rev. 13, 1965, for a discussion of incremental values. The cultivation and reclamation requirements of Section 1 insure good faith on the part of the owner that the arid land would be cultivated and reclaimed. This purpose of the Act in no way changes the overriding original anti-monopolistic and anti-speculative purposes of the original reclamation law. (Discussion of this purpose to follow.) Therefore, while cultivation and reclamation are required for a final water rights certificate, residency remained a requirement to receive water initially. See sample forms for water right applications in Department of Interior, Fourteenth Annual Report of the Reclamation Service 1914–1915, 268–276, which require affidavit of residence.

It should also be pointed out that on August 10, 1917, Congress saw fit to suspend the residence requirements during World War I. See 40 Stat. 273.[5] It would be strange indeed if Congress intended to eliminate the residence requirement for receiving water by the Act of 1912, that it deemed it necessary to suspend residency in 1917. It is much more plausible 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 residency requirement.

The government's rationale in relying on Section 1 of the 1912 Act is somewhat obscure. Their primary argument rests on Section 46 of the 1926 Act. It is difficult to understand how the 1912 Act can shed light on a policy which they argue was not expressed until the 1926 Act of Congress.

It is further argued that the elimination of the water right application by the Act of May 15, 1922, 42 Stat. 541, is an expression of intent to eliminate the residency requirement.[6] Where a legally formed irrigation district agreed to pay moneys owing the United States for construction and maintenance of the project, this statute dispensed with the requirement that individual water user file an application for water right. It is clear from the Department of Interior's Report, on S. 2118, dated May 23, 1921, to the Senate Committee on Irrigation and Reclamation of Arid Lands that the Senate bill, which later became the 1922 Act, dispensed with the water right application in order to eliminate unnecessary amounts of work and possible complications. Since one function of the application was to establish a lien for the payment of water charges on each users land in favor of the United States, the elimination of the lien by the statute removed a basic reason for the application. Further, inasmuch as the new irrigation district is responsible to pay the United States for construction and maintenance, it would be collecting the payments from its members and controlling the distribution of water. A new applicant for water would be required to go through the district and to require an additional application to the Bureau of Reclamation could have made the process unnecessarily complex while only duplicating work which could be done by the district.

The application was used by the Bureau of Reclamation to enforce other provisions of the reclamation laws such as the residency requirement, (See Department of Interior, Land Ownership Survey of Federal Reclamation Projects 34, 35, 1946) but the 1922 Act fails to refer to residency. This failure does not lend support to any interpretation of the Act as an expression of intent to eliminate the residency requirement nor to change the national policy of the reclamation laws. There is no positive repugnancy between the 1922 Act and the residency requirement. The Secretary of Interior is given authority to dispense with the application at his discretion, but remains charged with enforcing the policy of reclamation law which is still in force. Compliance with residency, which is an expression of national policy, should have been secured by other means.[7]

On April 19, 1916, the Department of Interior issued an opinion which undercut the policy of the reclamation law:

"The residency requirement of this section (Section 5, 1902 Act) in reference to private lands is fully complied with if, at the time water-right application is made, the applicant is a bona fide resident upon 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 made under the Act of August 9, 1912 (37 Stat. 265), without the necessity of proving residency at the time proof is offered." (See I Federal Reclamation Laws Annotated, page 55–56).

The government cites this opinion along with subsequent Federal Regulations and expressions of policy by the Bureau of Reclamation as evidence of elimination of the residency requirement.[8] This evidence recognizes there is a residency requirement problem, but denies that residency is a continuing requirement as an expression of national policy. The Department cannot repeal an Act of Congress.

It could be argued that re-enactment of the statute, such as was the case in Section 14 of the Boulder Canyon Project which re-enacted the reclamation law, constitutes legislative acceptance of the earlier administrative interpretation. It has been held that an administrative interpretation of a statute was binding on the court where it has been impliedly upheld by re-enactment of the statute. See *Kieferdorf v. C.I.R.*, 142 F.2d 723. However, Congressional re-enactment of a statute, without expressed consideration or reference cannot give controlling weight to an originally erroneous administrative interpretation of the statute. *United States v. Missouri Pacific Railroad Company*, 278 U. S. 269, 280. The re-enactment of a specific clause or statute after administrative or judicial construction is merely one factor in the total effort to give fair meaning to the language thereof, and such circumstances must give way to plain language or basic purpose. *Fleming v. Moberly Milk Products Co.*, 160 F.2d 259.

The Reclamation Act of 1902 was enacted after a long history of monopoly of and speculation in the arid lands in the west. This background resulted in a national policy of anti-monopoly and anti-speculation which found expression in reclamation law. It is this policy which provides possibly the strongest rationale for holding the residency requirement in force. From its very inception reclamation policy has been to make benefits therefrom available to the largest number of people. The 1902 Act contained a 160 acre limitation, required that users be bona fide residents, required that the reclamation water right be appurtenant to the land, and provided that rights to the water be limited by beneficial use. 32 Stat. 389, 390 (1902), 43 U.S.C.A., Sections 372, 383, 431 (1964). These devices were incorporated into the bill in order to prevent land monopolization and profiteering by large corporations to the detriment of the intended beneficiaries of the Act. See Taylor *The Excess Land Law-Execution of a Public Policy*, 64 Yale L.J. 476, 484–86 (1955). The idea was to create a class of self-reliant family farmers. See Land Ownership Survey, supra, 61–73, 91.

National policy, as expressed in the reclamation laws, is to provide homes for people.[9] Homes are possible only where speculation and monopolization are not possible. The 160 acre limitation and the national policy which it reflects have been upheld by the Supreme Court in *Ivanhoe Irrigation District* v. *McCracken*, 357 U.S. 275. The residency requirement in Section 5 is a second expression of that national policy. Its repeal by implication would be contrary to the purpose for which Section 5 was enacted. Early in reclamation history events showed that "under the private projects where residence is not required, the developments have been very largely along the line of the creation of tenant farms." See Department of Interior, 11th Annual Report of the Reclamation Service 11 (1911–1912). Failure to enforce residency subverts the excess land limitation which *Ivanhoe*, supra, specifically upheld. Through the use of corporations, trusts and cotenancies flagrant violations of the purpose of this limitation are possible. Each of these farms may be used to by-pass the acreage limitation. The policy behind reclamation law to aid and encourage owner operated farms requires enforcement of the residency requirement to prevent these violations. See Sax, *The Federal Reclamation Law* in II *Waters to Water Rights*, supra, 217–224.

The fact that residency has not been required by the Department of Interior for over 55 years cannot influence the outcome of this decision.[10] Failing to apply the residency requirement is contrary to any reasonable interpretation of the reclamation law as a whole, and it is destructive of the clear purpose and intent of national reclamation policy. It is well settled that administrative practice cannot thwart the plain purpose of a valid law. *United States* v. *City and County of San Francisco*, 310 U.S. 16, 31–32 (1940). Rather than indicate the validity of the administrative ruling, the lapse of time serves to dramatize the unavailability 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. 1065, 43 U.S.C.A. Section 617m, provides that the Act shall be deemed a supplement to reclamation law which shall govern the constructive operation and management of the works authorized. Inasmuch as Section 5 of the 1902 Act has been found in full force and effect, it must be applied to the Imperial Irrigation District as well as to all reclamation projects constructed pursuant to the Boulder Canyon Project Act. No right to use the water for land in private ownership shall be sold to any landowner "unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land. . . . 43 U.S.C.A., Section 431.

That portion of the motion for summary judgment determining the applicability 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, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section 4. No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner 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 local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this act."

[2] Section 46 of the Omnibus Adjustment Act of 1926, 44 Stat. 649, 43 U.S.C.A. Section 723(e), 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 organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into an agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts with irrigation districts hereinafter referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sales is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided further,* That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment."

[3] Section 46 provides that the following conditions which effect individual users be included in contracts with irrigation districts: (a) excess land over 160 acres shall be appraised and the sale price fixed by the Secretary; (b) no excess land shall receive water unless owners contract to sell the land at or below the contract price; (c) until one half the construction charges have been paid no water right passes with the sale until the sale is approved by the Secretary.

[4] Section 1 of 37 Stat. 265, 43 U.S.C.A. 541, provides:

"Any homestead entryman under the Act of June 17, 1902, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided,* That no such patent or final water-right certificate shall issue until after the payment of all sums due the United States on account of such land or water right at the time of the submission of proof entitling the homestead or desert-land entryman to such patent or the purchaser to such final water-right certificate."

[5] The Act of August 10, 1917, 40 Stat. 273, provides in part:

"Sec. 11 (Suspension of residence requirements.)—That the Secretary of the Interior is hereby authorized, in his discretion, to suspend during the continuance of this act that provision of the act known as "reclamation act" requiring residence upon lands in private ownership or within the neighborhood for securing water for the irrigation of the same, and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper. (40 Stat. 276.)

"Sec. 12 (Duration of suspension.)—That the provisions of this act shall cease to be in effect when the national emergency resulting from the existing state of war shall have passed, the date of which shall be ascertained and proclaimed by the President; but the date when this act shall cease to be in effect shall not be later than the beginning of the next fiscal year after the termination, as ascertained by the President, of the present war between the United States and Germany (40 Stat. 276.)"

[6] The Act of May 15, 1922, 42 Stat. 541, provides in part:

"That in carrying out the purposes of the Act of June 15, 1902 . . . and Acts amendatory thereof and supplementary thereto, and known as and called the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with. . . ."

"Section 2. That patents and water-right certificates which shall hereafter be issued under the terms of the Act entitled "An Act providing for patents on reclamation entries, and for other purposes," . . . for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; . . ."

[7] Section 46 of the Omnibus Adjustment Act provided that:

"Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers." Again this provision was not intended to alter the effect of the reclamation law and the Secretary cannot exercise his discretion so as to subvert the purposes of the Act."

[8] See Department of Interior Manual of the Bureau of Reclamation (1938 Edition) 373; Title 43, Code of Federal Regulations, Section 230.65.

[9] See Kinney, *A Treatise of the Law of Irrigation and Water Rights and the Arid Region Doctrine of Appropriation of Waters* 1912, pp. 2238–2239, Kinney cites a portion of President Roosevelt's first message to Congress, delivered December 3, 1901, as a classic statement upon the subject. Roosevelt's idea was that as a result of reclamation and settlement of arid lands "our people as a whole will profit, for successful home-making is but another name for the upbuilding of the nation."

BROAD SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide was written in 1948. Since then it has been ratified by 75 nations of the world, including our NATO and SEATO allies.

Support within the United States for our ratification of the Genocide Convention has been broadly based. Among those groups that have come out in support of the convention are the National Council of Women of the U.S., which claims to represent 5 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 Treaties. This 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 a list of the organizations comprising the Ad Hoc Committee on the Human Rights and Genocide Treaties, and a list of the six ABA sections which support the Genocide Convention.

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

AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

MEMBER 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.

American Humanist Association.
American Jewish Committee.
American Jewish Congress.
American Romanians National Committee.
American Veterans Committee.
Americans for Democratic Action.
B'nai B'rith.
Brotherhood of Sleeping Car Porters, AFL–CIO.
Episcopal Church.
Farband, Labor Zionist Order.
Friends Committee on National Legislation.
Hadassah, the Women's Zionist Organization of America.
Industrial Union Department, AFL–CIO.
International Ladies' Garment Workers' Union, AFL–CIO.
International Rescue Committee.
International Union of Electrical Workers, AFL–CIO.
Jewish Labor Committee.
Jewish War Veterans.
League for Industrial Democracy.
Methodist Church, General Board of Christian Social Concerns.
National Association of Negro Business & Professional Women's Clubs.
National Association for the Advancement of Colored People.
National Board, YWCA.
National Catholic Conference for Interracial Justice.
National Jewish Community Relations Advisory Council.
National Conference of Christians and Jews.
National Council of Jewish Women.
National Spiritual Assembly of the Baha'is of the U.S.
Poale Zion, United Labor Zionist Organization of America.
Quaker, UN Office.
Retail, Wholesale & Department Store Union, AFL–CIO.
Textile Workers Union of America, AFL–CIO.
Ukrainian Congress Committee of America.
Ukrainian National Association.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
United Automobile Workers of America.
United Church of Christ.
Women United for the United Nations.
Women's International League for Peace and Freedom.
Workers Defense League.
Workmen's Circle.
World Federalists, U.S.A.
World Jewish Congress, American Section.

ADVISORY MEMBERS

Conference of UN Representatives of the Council of Organizations, UNA–USA National Council of the Churches of Christ in the U.S.A.

In addition the following ABA Sections approve the Genocide Convention:
Individual Rights and Responsibilities.
World Order Under Law Committee.
Criminal Law.
International and Comparative Law.
Family Law.
Judicial Administration.

TELEVISION BLACKOUTS OF FOOTBALL GAMES

Mr. SAXBE. Mr. President, in a nation of sports lovers like ours, I cannot understand why we still have television blackouts of certain football games even though the stadium might be sold out well in advance.

Such is the case in the city of Cleveland in my State of Ohio, where Municipal Stadium will be the scene of the American Football Conference professional playoff later this month. It is my understanding that this game will be a sell-out, as are so many of the Cleveland Browns home games. Yet, under authority that we granted professional football some years ago, the televising of the game will be blacked out within a certain distance of Cleveland.

This seems silly and highly illogical. I can understand blackouts if ticket sales to a certain game are lagging. I also can understand blackouts if the televising of the game might compete with a similar event in the same area, say a local college game. But neither is the case in Cleveland.

I have today wired Pete Rozelle, commissioner of the National Football League, requesting that the commissioner voluntarily lift the TV blackout of the Cleveland game. It is my understanding that the commissioner has this authority under the same legislation permitting TV blackouts in certain conditions. Lifting the blackout would be in the public interest, and a deserving tribute to the thousands of sports fans who otherwise would be unable to view this game.

I ask unanimous consent that my telegram be printed in the RECORD.

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

PETE ROZELLE,
Commissioner, National Football League, New York City, N.Y.:

In a day when private enterprise chafes under increasing governmental control, you have a unique opportunity to demonstrate your responsibility to the American public by agreeing to voluntarily lift the television blackout in the Cleveland area of the American football conference play-off game later this month. As you know, this game will be a sell-out, as are most games in Cleveland. It is my understanding that the Commissioner is permitted to voluntarily lift a blackout under the same anti-trust exemption permitting blackouts in the first place. This would be a public service of high order. Ohio sports fans are among the very best in the nation and should not be denied the opportunity to view the game on television if they can't see it in person.

WILLIAM B. SAXBE, *U.S. Senator.*

ART MODELL,
President, The Cleveland Browns, Municipal Stadium, Cleveland, Ohio:

I have today wired Commissioner Rozelle requesting that he exercise his authority to voluntarily lift the television blackout in the Cleveland area of the American Football Conference play-off game in Cleveland Stadium later this month. It is my understanding that a voluntary lifting of a TV blackout is permitted under the same legislation that allows blackouts. Ohio sports fans are among the very best in the nation, as you well know, and shouldn't be denied the opportunity of viewing this game on television. I request that you use your considerable influence in helping to make the viewing of this game available to all. Best regards.

WILLIAM B. SAXBE, *U.S. Senator.*

H.R. 10947, THE REVENUE ACT OF 1971

Mr. NELSON. Mr. President, the Revenue Act of 1971—as approved by the Senate-House Conference Committee—is almost identical to the bill sent over by the House and approved by the Committee on Finance.

I opposed the bill in committee and on the floor of the Senate for two reasons:

First, because it represents the wrong remedy for 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 spur consumption, and 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. Over the next 10 years, the revenue loss is about $110 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.

Yesterday the President vetoed 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. We can afford to spend over $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 a small fraction of that to provide comprehensive child care.

But aside from this question of priorities, there is a somber warning in the budget figures.

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. As a result 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 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 reform 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 "large sums of money" to make schools less dependent on local property taxes.

Many of these proposals are highly desirable. Welfare reform should be of the

highest priority when the Senate reconvenes after Christmas. But it is hard to see how we will be able to afford these new programs after losing the revenue that we will give away in this tax bill.

CONFIDENTIALITY OF TAX RETURNS

Mr. MATHIAS. Mr. President, I am very much pleased that the conferees on the revenue bill agreed to retain a modified version of my amendment to prohibit improper 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 filling out 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, with the sole and logical exception that information provided for a Federal return may be used for the preparation of State and local returns.

The conference version does authorize the Secretary of the Treasury 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 conferees, to prohibit a firm in the business of preparing tax returns from contacting its previous customers 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 on a continuing basis 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 not 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 foresaw was that the names and addresses of taxpayers in various income brackets could become the basis for potentially lucrative mailing lists 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 unspoiled White Mountains National Forest will soon forget the experience. It is a region of breathtaking beauty, each turn in the road revealing a new vista of snow-capped peaks and verdant valleys.

It was Daniel Webster, Mr. President, who wrote so many years ago:

> Men hang out their signs indicative of their respective trades; shoemakers hang out a gigantic shoe; jewelers, a monster watch; and the dentist hangs out a gold tooth; but 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 its 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 this holiday 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 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 Boston Conservatory 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 spring.

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 be on hand to represent the White Mountains National Forest.

Mr. President, the tree has safely arrived in Washington under the supervision of Mr. Martin April, national accounts executive of the Hemingway Transport Co., and it is now being prepared for its debut next week. Making certain it received tender, loving care on its trek from New Hampshire were Robert B. MacHeffie 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, over 500,000 youngsters under age 5 have been poisoned and at least one child each day has died from swallowing these hazardous household substances since Congress acted.

HEW 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 HEW 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 aims, 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 maldistribution 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 by checks, 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

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 outmigration from rural America to our already overcrowded cities. In fact, Mr. President, we have got to reverse that trend and give the economicaly disadvantaged the access to productive land ownership. This does not involve any handouts. 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 continue subsidizing it. We subsidize the corporation of American agriculture by Federal tax laws that encourage tax loss and hobby farms and land speculators. We subsidize bigness in agriculture through our labor and immigration laws which provide giant corporations with a constant source of cheap labor. We subsidize bigness in agriculture through a multibillion dollar farm payment program, almost half of which goes to giant agribusinesses. 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 160 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 landholdings should be of reasonable size. These are not radical proposals, Mr. President. They have been recognized since the days of Thomas Jefferson and the Congress has seen fit to 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 put an end to 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 are not infinite. In the process we 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 access to productive 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 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 owners and spectulators.

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 aims be printed in the RECORD, along with the announcement of the coalition's formation and a coalition statement entitled "Land, Jobs, and Ecological Survival." 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 were ordered to be printed in the RECORD, as follows:

NEW NATIONAL ORGANIZATION TO WORK FOR LAND REDISTRIBUTION

The National Coalition for Land Reform will hold a press conference at 9:30 am Thursday, December 2, 1971, in the California Room (mezzanine) of the San Franciscan Hotel, 8th and Market Streets, San Francisco. Speaking for the NCLR will be Robert Browne, director, Black Economic Research Center, New York; Berge Bulbulian, small farmer, Sanger, California; David Talamonte, director of the Tri-County Economic Development Foundation; Sheldon Greene, general counsel for the California Rural Legal Assistance Foundation; and Dr. Gerald Meral, West Coast director of the Environmental Defense Fund. Mr. Browne will speak about the needs of black sharecroppers in the South. Mr. Bulbulian will discuss the plight of small farmers being squeezed by giant corporations. Mr. Talamonte will discuss the efforts of Mexican-American farm workers to acquire land. Dr. Meral will speak about the environmentalists' concern for prudent rural land use.

SAN FRANCISCO.—A small farmer, a black economist, an organizer of a Mexican-American cooperative and an environmentalist today announced the formation of a new National Coalition for Land Reform.

The chief aim of the new organization is to bring about a more equitable distribution of land, wealth and power in rural areas. To this end the Coalition will oppose present policies which favor large land-owners and corporations, and seek new policies making land available to those who work and live on it.

Berge Bulbulian, a small grape grower from Sanger, California, said the new coalition represents the first time in American history that blacks, chicanos and whites have joined in a common effort to promote a democratic distribution of rural land.

Present government policies, Bulbulian said, are well symbolized by President Nixon's nomination of Earl L. Butz, a director of several agribusiness corporations, to be Secretary of Agriculture. These policies aid large agribusiness corporations at the expense of working farmers, force millions of rural Americans into overcrowded cities, add to unemployment and welfare costs, and lead to a kind of feudal society in rural areas.

The increasing concentration of land in the hands of giant corporations is particularly noticeable in California, Bulbulian said. Here, according to a report last year by the University of California Agricultural Extension Service, more than 3½ million acres of farmland are controlled by only 45 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 large outside sources of income and receive enormous subsidies and tax breaks against which the small farmer cannot compete.

These corporate landholdings, Bulbulian said, should be broken up and redistributed to working farmers. In particular, the 160-acre limitation of the 1902 Reclamation Act should be enforced.

Robert Browne, director of the Black Economic Research Center in New York City, noted that the acreage operated by blacks in the South declined by 40 percent during 1950–1964. Most of these dispossessed tenant farmers and sharecroppers migrated to northern ghettos, where few opportunities awaited them. And the migration is still going on.

"It is of utmost importance that these descendants of slaves, these families which have never owned 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 security," Browne said. "A legacy of dependence, whether on plantation masters or federal doles, is not a sound basis for self-respect."

Browne advocated a revival of the concept of the Homestead Act and the transference of land to blacks through a rural land bank. "This would be a far more economical way to deal with rural poverty than is welfare. It is certainly cheaper than continued migration with its incalculable costs in human and urban deterioration."

David Talamonte, director of the Tri-County Economic Development Foundation, which is organizing a farm workers' cooperative near Modesto, California, said farmworkers through cooperatives should be enabled to own the land on which they work.

"Farm workers know as well as anybody how to farm the land. They have been doing it for years. There is no reason that the profits from farming should go to large landowners and corporations, while those who actually do the labor receive wages of $2 an hour or less, and must go on welfare for many months of the year." He cited the growth of the *Cooperativa Campesina* in Watsonville, composed of former farmworkers and sharecroppers who are now joint owners of a highly successful strawberry-growing enterprise.

Sheldon Greene, general counsel of California Rural Legal Assistance and legal adviser to the new coalition, pointed out that land monopoly has long been considered a grave impediment to democracy and social justice in America. A century ago, he noted, the San Francisco *Chronicle* loudly condemned the "atrocious villainy" through which land monopolists in California accumulated vast empires, while thousands of industrious settlers were denied homesteads. Thanks to numerous government subsidies and the failure to enforce anti-monopoly laws, landholding patterns in California today are almost as bad as they were a hundred years ago, Greene said. Variable acreage limitations should be established for different crops, he contended, and an excess land tax imposed.

Dr. Gerald Meral, a zoologist who heads the West Coast office of the Environmental Defense Fund, noted that large-scale agribusiness and big corporate land developers are prime contributors to the environmental crisis. "Environmentalists must join hands with working farmers and the rural poor to put an end to corporate exploitation of land," Meral said. "We have a common interest in controlling suburban sprawl, preserving open spaces, and making prudent use of land, water and other diminishing natural resources."

The new coalition presently has offices on the East and West coasts and hopes to open others in the South and Midwest. It will

work closely with public officials, labor unions, minorities, environmentalists, small farmer organizations, students, consumers and public interest groups in building a nationwide lobby for land reform and prudent rural land use.

STATEMENT OF AIMS

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 by those who work and live on it is the key to alleviating rural poverty, easing urban overcrowding, reducing welfare costs and unemployment, protecting the rural environment, and building a stronger democracy.

Through educational, legal and political action, the NCLR seeks to—

Assure existing small farmers a fair return, and increase the number of self-employed farmers.

Encourage agricultural cooperatives.

Combat corporate feudalism.

Make government and financial institutions more responsive to working farmers and the rural poor.

Promote small-town 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.

Re-structuring of tax laws and subsidies to favor working farmers rather than large land owners and speculators.

New laws enabling rural Americans to acquire a proprietary interest in their local economies.

LAND, JOBS, AND ECOLOGICAL SURVIVAL

(Some selected quotes)

Thomas Jefferson: "The small land holders are the most precious part of a state."

Homestead Act, 1862: "No individual shall be permitted to acquire title to more than one quarter section [160 acres]."

F. H. Newell, first director of the U.S. Reclamation Service: "The purpose of the Reclamation Act is not to irrigate the land which now belongs to large corporations, or even to small ones, 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 small owner, whereby the man with a family can get enough good land to support that family, to become a good citizen, and to have all the comforts and necessities which rightfully belong to an American citizen."

Oren Lee Staley, president, National Farmers Organization: "The farmhouse lights are going out all over America. And every time a light goes out, this country is losing something. It is losing the precious skills of a family farm system that has given this country unbounded wealth. And it is losing free men."

Nick Kotz, 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 spectre of a kind of 20th century agricultural feudalism in the culture that remains."

Geoffrey Faux, director, 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 skillful men of good intent lead a local government, they cannot make the changes needed because rural communities themselves are in bondage to corporate powers. And it is not in the nature of things for International Paper to tax itself for better housing in Maine, or for Georgia Pacific to concern itself with schools in Harlan County, Kentucky, or for St. Regis to worry about poor black sharecroppers in Jefferson County, Mississippi."

Report of the President's Commission on Rural Poverty, 1967: "The problems of rural America and central city America are closely linked through migration. . . . The senseless piling up of refugees from rural America in our central cities provides no solution to the problems of rural areas or of the cities."

Woodrow L. Ginsberg, Center for Community Change: "When tens of thousands of scientists and skilled engineers [at Lockheed] were threatened with loss of jobs, a host of industrialists, bankers and others besieged Congress for large-scale loans and special legislation. But when even larger numbers of workers are threatened with loss of jobs in agriculture, scarcely a voice is raised."

Barry Commoner, director, Center for the Biology of Natural Systems: "Agribusiness is founded on several technological developments, chiefly farm machinery, genetically controlled plant varieties, feedlots, inorganic fertilizers (especially nitrogen), and synthetic pesticides. But much of the new technology has been an ecological disaster; agribusiness is a main contributor to the environmental crisis."

Victor K. Ray, National Farmers Union: "In Colorado, cattle feeding has been taken away from family farmers. It is now a corporate operation, controlled by packers. In the Denver area they skillfully maneuvered the market price downward from 29 to 21 cents a pound, thereby putting independent feeders out of business. Did 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 cattle fell the most, the price of beef at the counter actually went up."

Ralph Nader: "What is happening to California is happening elsewhere in 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 relationship to man by powerful corporate executives. . . . The uses of land resources throughout America must be brought under a working philosophy of trust, buttressed by fair, democratically enforced laws and far-sighted planning."

Peter Barnes, The New Republic, June 19, 1971: "Many citizens and public officials are coming to realize that rural America ought to be revived, cities salvaged, welfare rolls reduced, and they see that present policies aimed at achieving these objectives are not working. Environmentalists who for years have pointed to the dangers of 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 limitation [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

(By Peter Barnes)

Not long ago the Bureau of the Census published some disconcerting 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 in rural America, where 19 percent of farm families and 10 percent of non-farm families were earning less than $3,100 a year.

These statistics come as no surprise to anyone who has travelled through the small towns and backwaters of northern New England, Appalachia, central California or the South. Yet they should cause all of us—particularly Democrats—to sit up and take note.

We applauded the ringing promises of Lyndon Johnson to build a Great Society, and the pledge of Sargent Shriver to wipe out poverty by 1976. But something obviously went wrong—something more fundamental than the election of Richard Nixon. Despite billions spent by the federal government on social programs, despite the longest uninterrupted period of economic growth in America's history, very little new wealth trickled down to poor people, least of all to the rural poor.

What went wrong, or rather was wrong from the very beginning, was the basic assumption that poverty in affluent America is primarily a cultural, racial and geographic problem. This assumption underlay the various anti-poverty and regional development programs of the 1960s.

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 equitably shared.

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 have economic power. Most poor Americans do not own anything that produces income, and are not employed in industries where labor unions have demanded a healthy slice of the economic pie. Hence they remain poor.

This analysis leads to an inescapable conclusion: if poverty in America is ever to be eliminated, there must be a fundamental restructuring of the economy so that ownership of land and capital, and power in the economic marketplace, are much more widely distributed.

Let's look again at rural America. Not only did poverty fail to disappear in the 1960s; 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 the decade nearly 10 million persons had been economically driven from rural areas to the slums and barrios of our cities. Despite the rhetoric of the war 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, crop subsidies, water subsidies and labor policies also encouraged the emergence in some parts of the country of 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 rural middle class, remove control of rural communities from the communities themselves to far-off corporate board rooms, and generally preclude the revitalization of rural America along democratic lines.

What should the Democratic Party do? It should propose and seek 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; holdings should be of 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 squarely in the tradition of Jefferson, Jackson, Bryan and Roosevelt. They were recognized in the Homestead and Reclamation Acts, and have been urged by the United States upon Japan, South Vietnam, and

dozens of other nations in Asia and Latin America.

A comprehensive land reform program should include at least the following principal elements:

Enforcement of the 160-acre limitation in reclamation areas by federal purchase and resale of excess landholdings. Legislation to this effect has been introduced by Senator Fred Harris, Representatives Robert Kastenmeier, Jerome Waldie and others, and been endorsed by the AFL–CIO, the National Farmers Union, the Sierra Club, the National Education Association and Common Cause.

Establishment of appropriate acreage limitations for landholdings outside reclamation areas. The size of the acreage limitation would vary with the type of crop grown. All 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.

Vigorous application of existing antitrust laws to agriculture and enactment of new laws barring vertically integrated conglomerates from engaging in farming.

Restructuring of tax laws and subsidies to favor small-scale rather than corporate farming.

Greatly increased credit and technical assistance for agricultural cooperatives.

New laws assuring small farmers and cooperatives a fair return for their labor and greater power in the economic marketplace.

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 rolls would shrink; alienation of workers from their work would diminish; more citizens would enjoy economic independence; the environment would be protected and democracy strengthened.

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 coalition the party must put together if it is to be a progressive force in the 1970s.

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. Government has agreed to deliver some 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 posture of the Arab Nations, particularly Egypt.

Failure to provide Israel with military hardware adequate to meet the increasing threat will not reduce the possibility of war. Rather, if Egyptian President Anwar Sadat translates his recent statements into action, it can only make war more likely. It is becoming increasingly apparent that all the Arabs are waiting for is a sufficient military superiority—and they will decide what is sufficient—to crush Israel. We cannot permit such a brave and loyal friend—one who has had to 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. Egypt, in particular, has 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 recent report published by the Institute of strategic studies in London, one which does not include the Communists most recent missile and aircraft deliveries, Egypt now has approximately 666 supersonic aircraft. Of these 200 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 III's. Even if you add in the 75 overage French-built jet fighters, the 85 subsonic light attack planes and six reconnaissance jets, the unfavorable balance is far from redressed. One must consider that there are an estimated 416 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 approximately 374 planes compared to 1,496 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 surface-to-air missiles, more tanks, and more artillery than Israel, and we cannot forget the estimated 20,000 Russian advisors in Egypt, including some 200 pilots, who stand ready to assist. In short, the only way the Israelis can compensate for their numerical deficiences in men and equipment is through air superiority and greater overall military efficiency. Israeli 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 behooves 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, stronger motivation—will enable Israel to overcome the disadvantages I have just outlined. If the situation were to remain static, perhaps such a thesis might have some validity, 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 nation can go on superior training, discipline, determination, and morale. Still, the "intangibles" argument is not entirely without merit, for the Israelis are determined to survive as a nation. 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 reaffirms its belief that a nation has a right to be 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 being asked to send American troops into battle and we are not committing ourselves to fight another nation's war. That is not what the Israelis want from us. Furthermore, 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, then they will be able 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 its very existence is being 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 inclined to negotiate, and third, the Soviet Union might just recognize that shipping arms to the Mideast will not achieve the strategic gains they envision. We have seen 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 equipment if, in the process, they believed they might dramatically increase their power and influence in the Mideast. They might think twice, though, about sinking more men, equipment, and advisers into the area if prospects for 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 as is 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 wrote the Secretary of State about sending jets to Israel to maintain the balance of power. On July 30, 1970, 73 Senators wrote the President in a similar vein. Last October 15, 78 Senators introduced a resolution—No. 177—to the same effect, and on November 23 we passed, by an 82 to 14 vote, an amendment to the defense appropriations bill which provided for $500 million "to enable the President to finance sales, credit sales, and guaranteees of defense articles and defense services to Israel." Of this, $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

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 fight in it. 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 in Slayton, 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 data. The fact is, Mr. President, 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 interrelationship 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 Meyer's letter. Mr. Meyer's statement that "our country's haphazard approach to a problem that is killing the welfare system as certainly as if it were being deliberately planned" is so true.

I ask unanimous consent 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,
Slayton, Minn., November 24, 1971.

Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR 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,
DARRYL MEYER, *Director.*

MURRAY COUNTY FAMILY SERVICE CENTER,
Slayton, Minn., November 24, 1971.

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, and portions of the overall community continually berate the recipient of public assistance—usually the AFDC recipient. 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 systems' 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 upholding the Oregon Court that a woman cannot be required to pursue necessary legal action to obtain support from a deserting father as an eligibility criteria 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 good answers to these questions, but there is no attempt made to explain these things to the general public. From the individual county up through the federal system, I can see no effort at developing a pertinent public relations program or a method of obtaining community input which can be directed to some meaningful changes.

Perhaps because there are no nationwide responsibility standards for the public welfare agencies, there is also no explanation to the general community as to the responsibilities of the local welfare departments. There is little publicity as to the public agencies' responsibilities in the area of inebriacy, mental retardation, unwed parents, mental illness, child and adult protection, family and child-rearing problems, helping persons or families remain in their own homes through a variety of programs, or meaningful data on the persons in our society who are unable to compete in a work structure.

Veterans' organizations can freely broadcast and publicize that veterans' assistance is readily available to any veteran or his family in time of need. Our welfare system seems to have resigned itself to the position that when a veteran's disability extends beyond a few months, and the family applies for AFDC, they may then join the ranks of the "welfare chiselers" and our system allows this idea to perpetuate itself throughout the community. Also, it is not necesarry to perpetuate the reporting of much of the statistical trivia which is now being collected.

Public assistance beneficiaries may be financially "as well off" as has ever been the case; however, it is coming at ever increasing personal-value sacrifice. Our country's haphazard approach to a national problem, or problems, is killing the welfare system as certainly as if it were being deliberately planned.

As there is a rather sizable task force, in Washington, planning a federalized system, it appears that one of their major priorities should be the development of a meaningful data collections system and a correlated public relations and public information system. If this is not a part of any revised approach, the "poor" of this country will be in little better position than they are now.

Very truly yours,
DARYL 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 Skyhawk 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 the original request of 78 Senators that the United States resume deliveries of Phantom jets to Israel. It in no way is 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 Nixonian silence in the past and have been reassured by its proponents that really what we are seeing is a careful strategy of building world peace. Well, 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 "doctrine" in foreign policy, 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 will secure her 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 force she needs to defend herself. The delivery of military supplies and especially the Phantom jets should not and need not be a matter of periodic controversy and news spectaculars. Our policy requires continuity and steadfastness. To act in any other manner, is to increase the anxiety and promote instability and uncertainty.

If the dogma of self-help has any relevance, I would think that its high priest would endorse it. I call up the President to announce the resumption of Phantom jet deliveries to Israel. Mr. President, I ask unanimous consent that an interesting article from the Baltimore Sun on Israel's defense requirements and military status be printed in the RECORD.

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

GUNS "MADE IN ISRAEL" NOW COVER THE SUEZ

(By Stanley A. Blumberg)

JERUSALEM.—The Dove of Peace hovers uncertainly 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 fulfil its contractual obligations to deliver the Mystere and Mirage planes. And truly England would continue to sell Israel its Centaur tank, and the United States would supply cannon and electronic 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 order not to move unless invaded, decreed an embargo on planes purchased and paid for. Then the United Kingdom fudged on its promise to sell the Centaur, and Washington turned reluctant to contribute to the arms race. On the other side, the Russians demonstrated the courage of their clients' aggressive intent. Weapons in seemingly unlimited quantities were delivered to Egypt, so the Israeli problem turned urgent.

As a result of the Six Day War, to be sure, 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 the battle areas by civilian trucks. Many a grocer and butcher surrendered his lorry to the army for the duration of the campaign. Then hundreds of captured Russian and Czech trucks came to hand. Abandoned Russian armor of high quality was modified and adopted for Israeli needs, then it became part of the country's arsenal.

Still, this hard-won advantage in military hardware was makeshift and of short duration. Before the last cannon had cooled, before the last Egyptian body in the Sinai had been buried, before the rust could oxidize the armor destroyed in the desert, the Soviets re-equipped the Egyptian army and air force. Considering the new chill by Israel's own military suppliers, national security itself 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. They would build from scratch a military-industrial complex. During the perilous transition period, too, they would attempt to purchase weapons necessary to correct the military imbalance. The French embargo was firm, the English refused to sell Israel its Centaur tank. So the United States became Israel's prime and sole source of planes and sophisticated electronic equipment. There have been few occasions when a whole people was so dedicated to insuring its own defense. The building of weapons became a blueprint for survival.

To what extent have the Israelis succeeded, and how does this activity affect the chances of peace?

It can be deduced from current knowledge that Israel is approaching but has not reached a state of military self-sufficiency. It is estimated that over 25 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 Haifa, meaning they were equipped with missiles and electronic gear, designed and built in Israel.

Beyond that the New York *Times* reported that Israel is developing a two-stage solid fuel missile with a range of 300 to 500 miles capable of carrying a nuclear warhead. It is 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.

Moshe Dayan warned that the American policy of denying Israel the planes it needs is encouraging the Arabs to war. This policy, he adds, "is giving the Arabs the impression that we are getting weaker." However, he went on, in case of renewed fighting the Arabs would suffer a "defeat worse than those they have suffered in the past—despite Soviet intervention on their behalf."

It is believed here that the chances for renewed hostility in the near future are slight, despite the martial noises from Egypt. The possibility of peace would improve still further if Sadat were convinced that the Nixon administration could no longer be persuaded into applying pressures 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 for a large number of Indian families through the implementation of various public housing programs.

One of the most impressive of these programs is the turnkey mutual-help housing program in which the family 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.

There being no objection, the article was ordered to 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 variations, of what is going on in other tribal communities—is the program being carried on by what are known as the "five civilized tribes" of Oklahoma. The tribal designation is historically derived, going back nearly 150 years, and refers to the Choctaw, Cherokee, Creek, Chickasaw, and Seminole nations. 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 homelands and pushed them out. Their pleas for protection were heeded by President Andrew Jackson and 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 in the east, most of the members moved in a mass migration, along what is remembered now as the "trail of tears."

Fifty years later, with the opening of 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 intermixed among the general 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 and work in the cities as a part of the general urban population.

Nonetheless, the tribes and their members retain their historic identity and hold a special status. The tribal laws governing the members are incorporated in the laws of the State of Oklahoma and the chief 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 foregather for tribal meetings 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 landless and a majority have suffered severe disadvantage in the white man's society. One of the manifestations of this situation has been the substandard and often wretched 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 social 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.

Immediately after passage of the act, each of the tribes, with the assistance of the BIA, began to take steps toward creating housing authorities. The Choctaw, Cherokee, and Creek nations completed organization of their housing authorities in 1965 and the Chickasaw and Seminole nations in 1966.

Under the housing authorities act, five persons are appointed as commissioners of an authority by the chief or other governing head of an Indian tribe, band, or nation, with the regular term of office for each commissioner set at three years. A chairman and vice-chairman are elected from among the commissioners of the authority.

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 appalling to find that 10,222 Indian families from a total of 15,893 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 2028 families were in dire need of loans or grants to make necessary home repairs and renovations.

Upon completion of the organization period, community meetings were scheduled in 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 a total of 30 projects (1104) units) under various stages of development. Of this total, 11 projects (245 units) have been completed and are now under occupancy.

Two of the low-rent projects being sponsored by the Chickasaw tribe 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 considering projects for the elderly 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 programs within their nations involving a total of 500 individual homes and other types of rental units located on scattered sites in the various towns and communities. 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 tribes is the turnkey mutual-help housing program, which is administered under a joint agreement with the housing authorities, HUD, the Indian division of PHS, and BIA. Under this program, the participant family furnishes the land on which to construct a house and about 500 hours of labor in the construction. HUD, through the Indian housing authority, provides the financial assistance for a turnkey contract, furnishing all materials and labor beyond the abilities of the participant family. As part of the contract, which is between the housing authority and the developer, the family is obligated to furnish the required labor directly to the developer. On completion of the homes, the participant receives a certification of his labor contribution, which, together with the value of the site, provides for an equity totalling $1500 for the family at the time of occupancy.

The participant pays a rent based on the family income, with certain deductions authorized, with the annual contribution from HUD making up the difference between rent and economic cost. This rental payment continues until the end of the federal indebtedness, whereupon the occupant acquires homeownership. Regular monthly payments cover the costs of insurance, administration expenses, and equity payments. Additional equity payments may be made voluntarily at any time by the participant.

Following is a table showing the status of the mutual-help housing program in the "five civilized tribes" area of Oklahoma:

Tribe	Fiscal year 1972 allocation	Under or nearing construction	Completed and occupied	Total
Cherokee	306	675	255	1,236
Choctaw	300	308	330	938
Creek	100	190	97	387
Chickasaw	100	414	106	620
Seminole	0	171	79	250
Total	806	1,758	867	3,431

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 services extended through 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 shockingly low housing standards under which many Indians live have crippled educational, occupational, medical, and other programs extended for their improvement.

Today a growing public housing program is being carried out by 106 Indian housing authorities and is making major changes in the housing conditions of Indians throughout the country. By the end of the calendar year 1970, 16,300 public housing units had been approved for Indian communities, with 6,250 of them completed and occupied.

The program originated in 1961 when the Oglala-Sioux tribe at Pine Ridge, South Dakota, reminded the new President, John F. Kennedy, of his campaign promise to do something about the "shameful" housing conditions among the Indians (see 1964 Journal, No. 3, pages 124–131). The result was a three-way conference between the Public Housing Administration (now part of HUD), the Bureau of Indian Affairs, and the United States Public Health Service to develop a joint program to provide the housing, the services, and the community facilities that the Indians needed.

The public housing program that was devised, under the then Public Housing Commissioner Marie C. McGuire was based on a determination that the Indian tribes, under which most of the Indians are governed, were in fact public corporate bodies with the powers necessary to establish a public housing authority and carry out a program, in the same manner as a municipality. Such authorities are now carrying on public housing programs for both reservation and non-reservation Indian tribes in 26 states, stretching from Maine and Florida to California and Alaska.

MUTUAL HELP

But even with the public housing subsidy, the poverty of many of the Indians in terms of money was such that they could not afford even the minimal payment of public housing. To serve the most needy, a new method of public housing was developed—the mutual help program—and this method has been used for more than half of the Indian public housing thus far. The mutual help program was based on the fact that, though the Indians lacked money, they had labor to offer and in many cases land. The program, therefore, combined the labor of the Indians in building the house, the land and sometimes the materials made available by the tribe, the technical assistance from the Bureau of Indian Affairs, and the sewer and water facilities furnished to the point where the public housing subsidy would be sufficient with only a minimal tenant payment to amortize the cost in 25 years. As a further incentive to the Indian family to make its maximum contribution in labor, upkeep, and care of the house, the family was made eligible to acquire ownership of the house when the debt was paid off.

For those who had the means, conventional public housing, and more recently the Turnkey III procedure, have been used. For a small proportion of such families, financing under the Veterans Administration, the Federal Housing Administration, and the Farmers Home Administration programs has also provided the answer for the large number of Indians with extremely low incomes. An account of how this has worked among the Pueblo tribes in New Mexico was carried in the No. 1 Journal, pages 30–33, and a report on another well advanced program in Oklahoma is given in this issue in the accompanying account by G. Ronald Peake.

When the new Indian public housing program was finally worked out in 1961, the Oglala-Sioux tribe that started it all was the first to use it in a pilot of 50 units. They have since tripled their program. Within five years the number of units approved for Indian housing authorities reached 3800; in another five years, by the end of 1970, the number had increased fourfold to 16,300.

WHAT'S NEEDED

But what has been done meets only a fraction of what is needed. Currently pending with HUD are applications from Indian authorities for an additional 12,600 units; a BIA 1970 survey reported that 50,000 new units will be needed to provide standard housing for the 95,000 Indian families in the country.

THE HEALTH OF OUR GOVERNMENT AND OUR SOCIETY

Mr. ALLOTT. Mr. President, the December issue of Fortune contains two wise 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 the 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 life—the law—is more vulnerable and weak than most people realize.

These articles are not contradictory. In fact, they complement each other very well indeed, and both—but especially Professor Bork's article—help explain why it is imperative that men of Mr. William H. Rehnquist's caliber and persuasion 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 subjective disease, social hypochondria." We have achieved so much that our expectations have become 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 postrevolutionary tidying up, a consolidation, a new and stable order. On the other hand, the process exemplified by the U.S. in recent decades does not allow for that "logical" sequence. We have plunged into changes that, in turn, urgently require other changes—in laws, in political forms, in life styles, in education. And these "consolidations" immediately generate the need for still more changes. We have to do our tidying up, our consolidation, as we go along. 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 amid new and better fixed institutions.
>
> Faced with the need for the concurrent, rather than the consecutive, handling of change and consolidation, the U.S. frequently fails to keep its action in phase. Friction and frustration result. Perhaps a high incidence of these 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 is running hard has a higher pulse and respiration rate than one who is walking. But in the circumstances the higher rates do not necessarily 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 institutional niceties. 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 and courts—to do things which, even if they should be done at all by

Government, should not be done by those institutions of the Government.

And this is where Professor Bork's article is especially relevant. Professor Bork's theme is this:

Law has entered upon troubled times. Along with the other major institutions of Western culture, it is beset by malaise and self-doubt. Seeming strength and sensed weakness combine in an uneasy blend. It is a time when the law lays 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 young men and 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.

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 expansible carrier of social policy and norms. Law is not an implement that can be turned to any purpose. It has enormous capabilities, but when we ignore its limitations we damage law and place in peril the benefits it can confer. Law is now in serious danger of overreaching its capabilities, and may in fact already have done so. This is an aminous development, both as a symptom of social decay and as a likely cause of further deterioration in the social fabric.

We have also damaged law, and created disrespect for it, through our failure to observe the distinction, essential to a democracy, between judges and legislators. The era of the Warren Court was, in my opinion, deeply harmful to the prestige of law. There 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 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 taught them to confuse the desirability of ends with the legitimacy of means, perhaps to confuse the idea of law and the fact of power.

Mr. President, those who favor the trends Professor Bork deplores are now deploring Mr. Rehnquist. They are aligning themselves with a doctrine of judicial activism—not to say judicial frantiness—which has never had a substantial theoretical justification, and 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 there are areas in which a government of men rather than of laws is to be preferred. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs that the use of law entails, but then we should be skillful enough to frame the criteria in ways that law can handle. We must remember that law is a blunt instrument, and that we cannot use it effectively if we assign it tasks requiring a scalpel.

A NEED FOR LAISSEZ FAIRE

Law in our society is overextended in yet another sense. We have pushed too many policies that are too complex into the courts. In judicial institutions as in economic units, there are problems of economies of scale, problems of optimal size and work load. The principle that some specialization is essential to effective work cannot be overlooked. No other nation thrusts as many policy issues upon its courts as do we. In such varied aspects of life as antitrust, labor relations, rules governing elections, entitlement to government benefits, and criminal-law procedures courts are confronted with major substantive issues left unresolved by other branches of government. As a result, American courts are overloaded with broad and profound questions of economics, sociology, political philosophy, criminology, and so on and on. They do not, it must be said in all candor, handle these questions very well. Very often they do not handle them even passably. 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 there has been a marked decline in judicial performance, and complex social policies are being deformed or rendered simplistic in the very process of their application. The two fields that I know best, antitrust law and constitutional law, are in states of intellectual chaos. My colleagues tell me that their fields of interest are in no better condition.

The lesson may be that a society cannot afford too many complex social policies, that some large admixture of laissez faire is required simply because regulation that might ideally be preferable will in fact, because of our inability to apply it without deforming it, turn out to be worse. Or perhaps the moral is that we must require legislatures to spell out their policies with considerably greater precision and specification than we now expect. In a society where customary modes of doing things are trusted, legislators can leave the detailed working out of policies to administrators, but that is no longer our case. And if we insist upon judicial participation in the application of policies, we must protect the judiciary by also insisting that legislators provide more guidance.

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 use law to bring about social change have been "creating expectations that are beyond fulfillment." He has warned: "Young people who decide to go into the law primarily on the theory that they can change the world by litigation in the courts I think may be in for some disappointments. . . . That is not the route by which basic changes in a country like ours should be made. That is a legislative and policy process, part of the political process. And there is 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 pattern of the Warren years. The habit of bringing to the Court 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 judicial system, and the Supreme Court may ultimately have to face them—suits seeking judicial determination of abortion statutes, the death penalty, environmental issues, the rights of women, the Vietnam war. 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 while the Senate waits for the opportunity to confirm Mr. Rehnquist, I ask unanimous consent that these articles be printed in the RECORD.

Mr. President, there is a third important article that should be considered by those of us who are awaiting a chance to get on with the confirmation of Mr. Rehnquist. This article is by Prof. Joseph Bishop who, like Professor Bork, is a member of the faculty of the Yale Law School.

The title of Professor Bishop's article is "Politics & ACLU" and it appears in the December issue of Commentary. The article concerns the relatively recent evolution of the American Civil Liberties Union in the direction of a political pressure group.

The ACLU is currently celebrating its 50th anniversary. Its history is, in my judgment, largely one of positive contributions to our society. But as Professor Bishop demonstrates, there is ample and alarming evidence that the ACLU is becoming an organization congenial only to those who share a fairly strict, and extremely leftwing, orthodoxy.

These are the concluding words of Professor Bishop's article:

The Union's chronic hostility to government is mirrored by its general indifference to assaults on freedom of speech and association by various New Left groups, which on campuses, at least, are a much more serious 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 obstruct movement. . . ." But actions to implement these commendable principles have been few and feeble—an occasional letter to the newspapers expressing disapproval of some unusually outrageous disruption, such as the shouting down of pro-war speakers at Harvard last March. (Many similar episodes seem to have altogether escaped the notice of the Union and its spokesmen.) There have been no interventions, no briefs *amici curiae*, no press releases supporting authorities who tried to prevent or punish such violence.

On the contrary: when the University of Connecticut obtained an injunction against the making on campus of obscene and disruptive statements in connection with demonstrations against recruiters representing 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 interfer-

ences with free discussion, like a bill which would authorize the Attorney General to seek injunctions against "disruptive noise" at public gatherings. But it is very sensitive—properly so—to private interferences with the New Left's right to express itself: when printers, for example, refused to set type for an issue of *Scanlan's Magazine*, which consisted largely of what the printers regarded as a sort of Field Manual for urban guerrilla warfare, including a how-to-do-it piece on the construction of cheap, simple, and efficient bombs, the Union's Executive Director announced his intention to sue the printing company. The Union's policy on disruptive students attempted to salve their sensibilities by acknowledging that they were "moved by conscience to use extraordinary means (a euphemism for violence) in the belief that ordinary means have failed in creating a more just and equal social order." Although the printing shop foreman said that it was "a matter of conscience" for him, and presumably thought that the social order would be none the better for an infusion of pipe bombs and Molotov cocktails, he got no similar encomium from the ACLU.

Perhaps it is too much to expect any special-interest pressure group to be fair or objective in its attitude to what it regards as the enemy. Moreover, the Union suffers from problems created by its very success: to find new battles and victories its staff seems to think that it must push farther and farther toward, and beyond, the outer limits of freedom (not only of speech, but of action) and must, indeed, become a political pressure group. But the Union's attitude toward a constitutional and democratic government need not and should not be always, or even usually, that of Ralph Nader to General Motors. The Union has done far more good than harm. I *think* it still does, but the question seems to me much closer than it used to be. The policies of its present management risk a considerable, and I think undesirable, change in its base of support—from a large number of people, having very different political views, but sharing a common belief in the virtues of the Bill of Rights, to a rather smaller and politically homogeneous group whose belief in civil liberties for everybody, including old thinkers, is in some cases very dubious.

Mr. President, I hope that all Senators will read Professor Bishop's article before becoming alarmed by the fact that the ACLU has come out in opposition to Mr. Rehnquist. When the ACLU board took this decision it made much of the fact that this was a departure from its tradition of not taking such political stands. But as readers of Professor Bishop's article will see, that tradition to day is well on the way to becoming a dead letter, and the ACLU is sadly on the way to becoming just another lobby for the latest fashions in radical chic.

Mr. President, I ask unanimous consent that Professor Bishop's article be printed in the RECORD as the third and final item.

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

[From Fortune magazine, December 1971]

IT ISN'T A SICK SOCIETY

(By Max Way)

Beginning in the middle years of the Sixties, the statement that U.S. society is "sick" has appeared more and more often in public comment and private conversation. By now this opinion has become an almost universal cliché, and among some groups, including intellectuals and the young, the judgment is widespread that the sickness centers upon the business system. Moreover, in many contexts the word "sick" is used as a synonym for "evil"; the society's basic patterns and institutions are suspected of predisposing the U.S. to paths that are morally wrong. Books developing these themes are something of a minor industry these days; two of them, *The Sick Society* and *America Inc.*, will be considered below.

Whether or not the sickness can be clinically demonstrated, it is certain that a high proportion of Americans today feel some extraordinary degree of anxiety, ranging from queasiness to panic, about the health of their society. This generalized sense that something is fundamentally amiss colors the way Americans now see any public event, condition, or trend. It causes them to ignore or subordinate good news, while magnifying any information that can be read as a symptom of the sickness. This mood, a self-sustaining state of mind, can have drastic consequences in the world of action.

No President of the United States, 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, aware that public confidence can be a determining factor in economic and political life, had to take into account the deep public anxiety about the basic health of the U.S.—an anxiety that went far beyond economics. Nixon's August announcement of his emergency program was directed at mechanics of economic life—and it was so received. Many commentators, brushing aside the strictly economic aspects of his new policies, emphasized the hope that his announcement was dramatic enough to stir Americans out of their anxiety. These observers saw his program, not so much as an economic program, but as a sort of shock treatment for emotional depression.

In less public but perhaps equally important ways the darkling mood influences American behavior. Cooperation among people depends partly upon their degree of trust in the social framework that surrounds them. Individual effort and career morale, too, rest partly upon confidence in the milieu wherein each man plays his role. If the society really is basically sick, who or what within it can be well?

Although current U.S. political, economic, and personal life is profoundly affected by the idea that the society is sick, the idea itself is not subjected to much scrutiny. Few commentators address themselves to proving that the U.S. is ailing or even to defining with precision what they mean by a "sick society." Usually the speaker or writer 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 broad judgment that 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 notes, moreover, that hypochondria can lead its victim to "a total neglect of his health and well-being." In other words, a man can become so obsessed with his imagined illness that he will not deal effectively with those threats and hazards that beset any normal life. Perhaps a nation, too, could jitter itself into an early grave.

To say that the U.S. is gripped by hypochondria is not to imply that, objectively, the social health of the U.S. is perfect. It faces, in fact, serious challenges that require the rapid improvement of many functions, and probably a thoroughgoing overhaul of some institutions. But these challenges arise not because social organs have deteriorated or sickened, but because the U.S. in the last twenty years has pushed rapidly forward along economic, political, social, and moral lines (see "Finding the American Direction," FORTUNE, October 1970). This advance thrusts us into a period, which may turn out to be protracted, of genuine stress. But a situation of objective difficulty is not a sickness. It is especially important to distinguish between them because people who mistakenly believe themselves sick will not react as successfully as they otherwise might to challenges in the real world.

In attempting to distinguish social hypochondria from organic sickness, this article will examine some treatments of that obsessively attractive topic, what's wrong with the U.S., with particular attention to the diagnosis that business is the cause or, at least, the main locus of the disease.

The present indictment is very different from that of the Thirties, when business seemed to have failed in its primary functions of offering jobs and producing goods and services. Since 1950, despite predictions that technology would shrink the need for human work, the number of people employed has increased much faster than the adult population. Even more remarkable has been the upgrading in the quality of jobs. Back-breaking toil and repetitive, mind-numbing tasks have declined, while the people most in demand are those possessing very high skills, including the humanistic skills of communication and coordination. According to government figures, from 1950 to 1970 the number of professional and technical workers increased 148 percent, the number of "managers, officials, and proprietors" increased 29 percent, clerical workers 80 percent, sales workers 27 percent, craftsmen and foremen 32 percent, whereas "operatives," mainly semiskilled, increased only 15 percent and "nonfarm laborers" only 6 percent.

Meanwhile, of course, the flow of goods and services from the business system, even in the bad year of 1970, reached a level that was, in real terms, more than double that of 1950.

The fruits of the economy, whether in the dignity of the work itself or in the products of the work, are much more widely and less inequitably distributed than they used to be. Millions of jobs are still dull, and millions of people, especially if they are young, black, or unskilled, have great difficulty getting and keeping even the dull jobs. Concern over the continuance of these conditions should not obscure some central developments. The office has displaced the assembly line as the typical form of U.S. work. Nearly 60 percent of American families (in 1970) were in the huge middle-income band between $5,000 and $15,000 a year, a band that represents neither opulence nor indigence. Popular participation in the ownership of industry, both directly and through pension funds, has vastly increased. The economic and personal insecurity formerly caused by sharp swings in the business cycle has diminished.

Yet these amazing qualitative and quantitative improvements prompt little public respect and less enthusiasm. For a while in the mid-Sixties social discontent was concentrated mainly against government. Business, its vigor conceded, was relatively sheltered from attack. But in the last few years complaint has been shifting its target. Business is now denounced for those very achieve-

ments that its critics of four decades ago deemed forever beyond its reach.

The loaded word "affluence," which suggests more than enough, has crept into almost everybody's vocabulary to describe the first large society in which most of the people are not at or under the line of poverty. The shame felt because of prosperity is as if a man, emaciated from birth, who was at last approaching normal weight, said, "Doctor, this disgusting obesity is killing me."

The gravaman of the antibusiness indictment swings from economics toward morals. Business, for a century accused of prolonging poverty by deliberately holding down production, is now accused of corrupting 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 toilsome, calling for more initiative and judgment from the workers and for less blind obedience to authority, a less hierarchial style of management appears. This provokes some older members of "middle America" to complain that the iron of disciplined obedience has been removed from the nation's moral diet. If business recruiters search universities for creative talents once 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 expected; sometimes the trouble is, indeed, that the product is faulty or that it was advertised mendaciously. In other, and more numerous 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 he enjoyed the work itself or the cooperation with his colleagues, shocking to say he likes serving his fellow men by what he does in industry. According to the current cant, "public service" can only refer to what one does after business hours.

People who tell themselves 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 time and of fixing 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 plainest—yet still the most neglected—truth about power today is that there's much more of it around in our society than there used to be. The second truth is that the society's total power is still (and will always be) limited: i.e., unable to do many desirable 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 that we collide with one another 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 hold all the significant power in society. Past conditioned, the contemporary mind keeps groping for an Establishment, the haughty seat of concentrated power and responsibility. 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—probably moral—in the Establishment, and (2) that the Establishment centers upon the business system. The "sickness," we think, must be at the top 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 includes other 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 questions can be thrust aside while the public thrills at the classic tableau of "the brave little man" pointing a righteous finger of blame at the throne and crying, "There is the seat of the corruption."

The second assumption exaggerates the power of business, its relative importance in the total structure. Business does, indeed, constitute the channel through which many of the new kinds of action flow into society, transforming it. Most of the fundamental social changes of recent decades—urbanization, mass prosperity, mass higher education, mass aspirations toward the good life—are intimately 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 morals or the motives or the structure of business for the fact that the problems are not yet solved. At this point, a lot of people start believing that the 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) a spreading sense of malaise or alienation, particularly among youth and intellectuals."

These disparate problems, says Tanzer, all have common "underlying economic roots and causes." The disease that produces these symptoms is "the organization and control of economic life by large profit-seeking corporations run for the benefit of the tiny upper-income elite that owns them." Tanzer emphatically denies that he is proposing a "conspiracy theory" to the effect that a group of "evil corporations" have set out to control American life. He thinks the four clusters of problems follow accidentally but not unpredictably from "the uncoordinated activities of separate firms, each having one narrow aim: profit maximization."

In a sense, Tanzer's thesis is a standard attack on capitalist society, familiar during the last hundred years and not crying for a new examination. But if *The Sick Society* is taken as a symptom of the trouble that it purports to diagnose, then the book is worth a second look. In Tanzer's analysis, people who work in corporations might want to use corporate power to resolve the problems represented by the four clusters, but they cannot do so because the sole permissible corporate goal is the maximization of the firms' profits.

The following passage indicates how Tanzer thinks "the corporate economy" hurts those who work for corporations: "People cannot work in institutions whose activities differ from their personal desires without it affecting their own personalities." 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 his point, Tanzer refers to Eichmann, the Nazi war criminal, whose excuse that he was only obeying orders is compared to that of a corporate employee who says, "Well, I only work there."

A tendency in modern thought, conspicuous since Karl Marx, seeks to disguise a moral accusation as a scientific conclusion. Tanzer, an economist, has no sooner disclaimed any intention of calling corporations "evil" than he is blaming much of the nation's and the world's suffering on the self-seeking of a tiny, powerful elite—and then he draws an analogy with the Nazi party. By "the sick society" he—and 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 own personal desires? This is a fundamental psychological and ethical question that lies close to the root of social hypochrondria.

Whenever two or three or twelve men get together for any purpose—whether it be maximizing profits or minimizing leprosy—differences will develop among the participators; the group will move in a way that some members disapprove. If the group is a modern corporation, the member can—and frequently does—resign when he objects strongly to what the corporation does. But in most instances he will work out some 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 unhealthy elsewhere, why should it be so in a corporation? Though profit maximization isn't, in fact, the only corporate goal, it is an important one. Concededly, maximizing a material gain is not the most morally uplifting of all human aims; but it isn't the most debasing aim, either. A century that has seen much evil done for reasons other than profit will recognize a modicum of truth in Samuel Johnson's remark: "There are few ways in which a man can be more innocently employed than in getting money."

Nonmaterial drives such as egotism, phychological imperialism, and ideological aggression can also cause damage in human relations. To avoid all material and immaterial possibilities of injury or corruption, the resolutely pure man would have to live alone in a cave.

A HEALTHY SOCIALISM, HE SAYS

Tanzer has a different solution. Indeed, when he gets around to discussing prognosis and therapy, the tone of his book suddenly moderates as if he had lost the intense emotional concern that carried him through his dire diagnosis. Sick though he says it is, the U.S. 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. It would have to be different from any such system if it were expected to perfect relations among nations, to end ethnic discrimination, and to cure alienation, "particularly among youth and intellectuals."

But the interesting question, which Tanzer does not seriously face, is how or 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 effort toward specific goals. This habit of sharply focusing attention and action is the key to all our new powers and also the source of many of our new troubles. Socialist economies also have—and must have—organizations designed around specialized goals and methods. Socialist societies also have—and must have—people whose desires differ from one another.

The market, as we know it, is doubtless a highly imperfect way of coordinating the "fragmentation" so deeply implicit in modern life. It is an illusion, however, to suppose that socialism really solves the problem of coordination. Either it is a tyrannical socialism, in which case hierarchical authority coordinates by simply suppressing the drives of particular groups of producers and consumers; or else it is a "democratic socialism," in which case it transfers to the political process the difficult and delicate task 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.

This vagueness concerning the future fits the hypothesis that such books as Tanzer's contribute to the disease, not to the remedy. As we know, the hypochondriac doesn't really want to get well. Why should he be interested in a concrete description of a future social system that he doesn't expect he 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, that many employees of corporations feel morally unclean and psychologically frustrated, and that the public generally is so uneasy that it has a difficult time concentrating on specific public decisions that require its attention.

THE VIEW FROM THE PATHOLOGY LAB

A more ambitious recent book blaming business for what's wrong with the U.S. is *America, Inc.*, which was on best-seller lists for weeks. In case anybody doesn't get the implication of the title, a subtitle is added, *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 this huge volume is in some sense true. One of the authors, Morton Mintz, is an investigative reporter for the Washington *Post*. The other, Jerry S. Cohen, was chief counsel for the Senate Antitrust and Monopoly Subcommittee. Both are competent and honest observers. Ralph Nader, who has become a sort of toastmaster of accusatory potions, contributes to *America, Inc.* one of his numerous introductions.

The effect of *America, Inc.* is as if two earnest researchers emerged from the pathology laboratory of a hospital waving slides of diseased tissue and proclaiming, "Here is what life in this community is like." Each 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. More important, all 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 page: "Big Business *is* government." The authors mean that large corporations monopolize the significant power in the society, including control of functions traditionally reserved for government. In a breathtaking leap, the authors equate business prices with the governmental power to levy taxes.

Even more logically reckless is the next analogy. "When it sends men to war or to a penal death chamber the constitutional government takes life. The giant corporation also takes life." It turns out that this second sentence means that the automobile industry has made cars that were less safe than some people think they should have been and that some pharmaceuticals were dangerously overpromoted. But in this sense, anybody might "take life." Long before a giant corporation existed, men died because of some action or inaction by other men. Sometimes the action 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 unfairness in carrying out this duty. But did it ever occur to anybody before that if A hurt B, then A must be a government?

A third analogy relates to "the quality of life and the environment," which government can affect. So can a giant corporation. Therefore, reasons America, Inc., Big Business is government. In the premodern era, goatherds with their relatively limited technology (i.e., goats) seriously damaged the environment of many Mediterranean lands. That did not make goatherds the government. In our time, most people—and not merely giant corporations and governments—can do much more damage than goatherds.

All present-day societies, whether or not they contain giant corporations, are struggling—none of them very successfully—with the implications of multiplied power. 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 which have, in fact, increased the 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 regulate business activities. Hardly anybody in the U.S., knowing the record of such regulation, would judge it admirable. Up until a decade ago, the main argument was an emotional debate on whether there should be more regulation or less. Then public attention began a belated and healthy shift toward the quality of regulation. For example, the long record of the Interstate Commerce Commission is now deemed a failure not because it regulated too much or too little, but because it was ill conceived from the beginning. Not incidentally, the ICC was ill conceived because it was created in response to the same kind of hysterical moralizing and indiscriminate denunciation that now infiames the land.

Each area of regulation prominently mentioned in America, Inc. environmental protection, automobile safety, and the testing of pharmaceuticals is a field of great intrinsic difficulty where experts differ. In such complex cases, government's job of protecting the public would not be easy if there were no giant corporations or, indeed, if there were no private business at all.

Effective and fair law enforcement is hard to achieve today in fields far simpler than business regulation. There are, of course, people who sit on country-club porches and proclaim 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 "undesirables." 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 corporations and individuals. Law effecting business—in the environmental and many other fields—needs to develop from a base that recognizes the genuine objective difficulties of the subject. A book such as *America, Inc.* tends to turn the discussion of business regulation back to the muckraking level of three generations ago. It is dramatically exciting—but not useful—to pretend that the U.S. is in a simple moral struggle between us good guys and those bad guys, the giant corporations.

A reader who believed the analysis of *America, Inc.* might easily conclude that only total revolution would offer any hope of national recovery. But the authors of *America, Inc.* are far from revolutionists. As is the case with Tanzer's *The Sick Society*, the concluding chapter of *America, Inc.* drops off to a whispered anticlimax. Mintz and Cohen recommend a rather well-worn set of reform proposals, stressing much tougher interpretation 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-business dominance were so overwhelming as Mintz and Cohen say it is. Having diagnosed cancer, they prescribe two aspirins. The hypochondriac's lack of interest in recovery was never more plainly indicated.

A HIGH PULSE RATE

A kind of antidote for hypochondriacal reading is provided by a third recent book, *Without 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 regards the U.S. as "sick." This judgment essentially echoes and magnifies the dominant opinion among American intellectuals. The overseas picture of the U.S. is exaggerated in some cases by Marxist prejudice that predisposes observers to see the leading capitalist country as riddled with "contradictions." Examples of turmoil in the U.S. are emphasized even more abroad than they are in American media. American efforts to deal with civil disorder are despised as fascist when they succeed, sneered at when they fail. Ideas of U.S. business life are even more outdated abroad than they are among American intellectuals. The surface of the news, meaning the bad news, is taken uncritically abroad as representing the whole reality of U.S. life.

Revel, on the contrary, interprets all the stress and protest in the U.S. scene as part of the tremendous vigor and thrust of a society that is actually moving more rapidly

than other countries in directions, such as democracy and diversity, that the world's intellectuals profess to value most highly.

Revel believes that the U.S. direction exemplifies the only possible hope for a better world, a path that he thinks European nations and the less-developed countries both could follow. His analysis contains one major—and very French—flaw. The word "revolution" occurs again and again in his pages as an event that is about to happen, first in the U.S. and then elsewhere in the world. Perhaps because of a certain dramatic event in their country's own past. French intellectuals seem unable to think of major social change except in terms of "revolution" thrusting up from below. In some passages, Revel seems well aware of the tremendous changes that have already occurred in the U.S. Much of what he might cover by the word "revolution" was happening here in the quiet Fifties and the unquiet, but not revolutionary, Sixties.

It was happening, moreover, through the action of such "establishmentarian" institutions as the business system, the Supreme Court, the presidency, and Congress, which have been more instrumental than "dissent" and "protest" in bringing about actual change in the U.S. Whether the seventies are quiet or not, this rapid process of U.S. change will continue.

The idea of revolution, especially as developed in the French habit of thought, looks toward a postrevolutionary tidying up, a consolidation, a new and stable order. On the other hand, the process exemplified by the U.S. in recent decades does not allow for that "logical" sequence. We have plunged into changes that, in turn, urgently require other changes—in laws, in political forms, in life styles, in education. And these "consolidations" immediately generate the need for still more changes. We have to do our tidying up, our consolidation, as we go along. 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 amid new and better fixed institutions.

Faced with the need for the concurrent, rather than the consecutive, handling of change and consolidation, the U.S. frequently fails to keep its action in phase. Friction and frustration result. Perhaps a high incidence of these 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 is running hard has a higher pulse and respiration rate than one who is walking. But in the circumstances the higher rates do not necessarily indicate abnormality or "sickness."

WHEN THEORY LAGS BEHIND PRACTICE

Hypochondria occurs because our out-of-date social theory, based on the experience of change in past centuries, is not adequate to describe the process that is actually occurring in today's U.S. We know the condition of society is different and we assume that it must, therefore, be sick.

In the present state of social science, there is no sure test that will disclose whether a given society is sick or well. One can assert, though without firm proof,that according to fundamental American ideals, which are widely shared among mankind, the objective condition of the U.S. today is, on balance, better than it has been at any time in the past, and as good as that of any other society today.

According to those same ideals, however, American society is far from good enough. Without being either objectively sick or subjectively hypochondriacal, our society ought to be conscious of its very serious defects. Or to put it another way, we will not face our real problems if we keep telling ourselves we are too weak or too evil to do what needs to be done.

In a recent New York *Times* Magazine article called "Is America Falling Apart?" the British novelist Anthony Burgess says, "There is no worse neurosis than that which derives from a consciousness of guilt and an inability to reform." True. And in fact a misplaced and overgeneralized consciousness of guilt can undermine the ability to make particular reforms. A man who says, "I am bad," may be locking himself into guilt. But a man who retains his self-respect while saying. "That particular pattern of action is bad and I will correct it," may be on the threshold of moral improvement.

To deal with the specific problems generated—basically—by increased power at all levels of society we need above all to see with today's eyes, not yesterday's. Obsessive accusers who dredge up stale morality plays about the wicked and corruptive king are 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 reimposing centralized authority.

A sick society could never succeed in that task. Neither could a hypochondriacal society.

WE SUDDENLY FEEL THAT LAW IS VULNERABLE

(By Robert H. Bork)

Law has entered upon troubled times. Along with the other major institutions of Western culture, it is beset by malaise and self-doubt. Seeming strength and sensed weakness combine in an uneasy blend. It is a time when the law lays 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 young men and 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 have always realized that they were not sure what law is or why it has a paramount claim upon the citizen's allegiance. To others, 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 the law is a mystery, that it is, in its deepest essence, unknowable. My classmates and I supposed that the great man (later to become dean of the school and then president of the university) said such things merely to snap us out of our civilian torpor in much the same way as the drill instructor in boot camp speaks some shocking phrases to loosen one's attitudes for the remolding that is to come. It simply could 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? Why did old lawyers quote approvingly the aphorism that law is a jealous mistress who will brook no other? There must be something that made it worth the devotion of a lifetime.

The attitude was no doubt callow and romantic, as befits young men, but it lured many into the law, and the profession still finds it useful in recruiting new members. My own case was not, I think, untypical. A college instructor, a poet who had taken a law degree himself, confirmed my leaning to the law. He said that law was the most noble of all human studies, for it brought philosophy into the marketplace. That was what my classmates and I knew must be true; it was certainly what we wanted to hear. The law was to be a profession of never ending intellectual endeavor, a study concerned with the ordering of complex human affairs through the application of reason. The law itself seemed almost a tangible thing, accrediting like a coral reef over the years through many thousands of arguments and decisions by a procession of lawyers and judges, and yet achieving the form of an unimaginably magnificent cathedral. We could almost discern its structure, vast, adorned with endlessly rich and fascinating detail, containing an infinity of passages and rooms, but with each part in integral relation to the rest and in harmony with the main supports and the foundation. Yet it was a structure, too, that was continuously growing and changing as men labored to see its design and improve small details in the brief light and time given them. A life in the law, we thought, promised battle, demanded devotion, and rewarded learning. 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 finally, into the mists. In middle age we suspect that it was nothing but a product of our imaginations to begin with.

These reflections are not merely personal. There is abroad a 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 courts, where we have come to accept major philosophic shifts as inevitable with changes in personnel. Signs are also apparent in the law schools, where the traditional intellectual thrust and self-confidence of the faculties have been damaged. One perceives now, despite rising enrollments, signs of lowered morale and uncertainty about the purposes, content, and even worth of legal education. The major law firms are worriedly attempting to adjust to the altered demands and interests of the new graduates, trying to understand their lessened drive and vague career aspirations, 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 whether this is a passing phase or the end of the established order and the birth of a new, bewildering, and as yet undefined legal culture.

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 law. And, since law represents stability and safety, is it surprising that sensed weakness should stir disquiet and even anger?

The trouble springs in large part from our inadequate understanding of law and its uses. The striking, and peculiar, fact about a field of study so old is that it possesses very little theory about itself. There is no body of systematic learning about the law's inherent capabilities and limitations. I have heard an eminent economist who became closely acquainted with a major center of legal schol-

arship remark with astonishment: "You lawyers have nothing of your own. You borrow from the social sciences, but you have no discipline, no core, of your own." And, a few scattered insights aside, he was right.

Good lawyers, a combative, hard-edged breed, are intellectually imperialistic, priding themselves on their ability to ransack other men's specialties quickly and beat them in argument on their own grounds. But it should cause imperialists some embarrassment to reflect that though they regularly invade and reap the harvests of other men's territories, the home country remains unsubdued. There is a price to be paid for that neglect, and the price appears to be the diminished effectiveness of law and decreasing respect for law. It would be well to begin to talk about the problem. Perhaps parts of it must remain insoluble, but we can do better than we have done, and at the very least we may be able to avoid misidentifying the cause of our troubles, and perhaps head off panicky responses that make matters worse.

One aspect of our unease may derive from our tendency to use law too much, to view it as an infinitely expansible carrier of social policy and norms. Law is not an implement that can be turned to any purpose. It has enormous capabilities, but when we ignore its limitations we damage law and place in peril the benefits it can confer. Law is now in serious danger of overreaching its capabilities, and may in fact already have done so. This is an ominous development, both as a symptom of social decay and as a likely cause of further deterioration in the social fabric.

We have also damaged law, and created disrespect for it, through our failure to observe the distinction, essential to a democracy, between judges and legislators. The era of the Warren Court was, in my opinion, deeply harmful to the prestige of law. There 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 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 taught them to confuse the desirability of ends with the legitimacy of means, perhaps to confuse the idea of law and the fact of power.

Our culture has long stressed the importance of law, and Americans are probably as concerned with law 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 toward law that this counterstrain creates appears to be strongest in persons with more education, leisure, and affluence than the average. It is closely related to the tradition—now especially strong in literary and academic circles—according to which the enlightened man must continually be in opposition to society, particularly to bourgeois society. Violence from the political right is abhorred, but not violence from the left. The rhetoric of the left is more appealing to prevailing modes of thought—and after all, the argument runs, society has been slow to undertake necessary reforms. Hence the support and sympathy shown in journalistic and academic quarters for such representative figures of our times as the Berrigans, prison rioters, student militants, Black Panthers, Yippies, *et al.*

The tradition of support for civil disobedience and even violence is deeply disturbing, particularly disturbing because it is so firmly established in the institutions that mold opinion. There is a limit to how much defiance of law a legal system can tolerate. No one knows precisely where the tipping point is, but it is undeniable that our system is beginning to feel the strain. Disrespect for law is contagious. As Hannah Arendt warns, "The practice of violence, like all action, changes the world, but the most probable change is a more violent world." Since violence and defiance of law are often successful in our society, they are not, in the short run, irrational means. But in the slightly longer run, if they become the common mode of political struggle they will be disastrous for everyone.

Those who use or advocate coercion and disruption for political or ideological ends have a ready model in the legally sanctioned struggle between labor unions and management. Our labor law, and the ideology that supports and suffuses it, encourages the organization 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. The method of struggle, by both sides, is coercive, each attempting to put intolerable pressures on the other in order to achieve a favorable if temporary treaty of peace.

It becomes increasingly difficult to maintain a consensus that the legal right of private employee unions to strike and disrupt (and of employers to lock out) is somehow different from the desire of other groups to do the same. One element in the inability of some faculties to resist educationally inappropriate student demands, backed by threats of mass disruption, was the frequently advanced analogy of the students' position to that of workers. Sensing the drama and power it created, students eagerly cast themselves in the role of proletarians, and many faculty members accepted the metaphor. Picket lines, strikes, disruptions are now becoming the common coin of political dispute, used by groups ranging from welfare recipients to women's lib. Not law but willingness to inflict inconvenience and discomfort, or sometimes worse, becomes the decisive factor in disputes.

When law is invoked, as in certain strikes by public employees, it is often only partially effective. Frequently it is brought into play with the understanding that sanctions will be modified or lifted entirely if the objectionable behavior ceases. In the course of student disorders the authorities may bring law to bear, but the demand for amnesty is frequently made and frequently granted as part of the bargaining process. Law is then perceived by the immediate participants to the struggle, and by the general public, as merely one weapon usable in combat. Law becomes thought of not as the ultimate command of our society, but as simply one element of power in a complex struggle. This view of law denies it any claim to unique respect. It is on a part with any other kind of force.

A CLAIM OF OMNICOMPETENCE

In this way, domestic law begins to descend to the status of international law, which means that we begin to recognize the independence, 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 to advance are nevertheless perceived by the society as lacking any legitimate right to disrupt, to wage limited wars. The question, and it is by no means an easy one, is whether we will be able to sustain our denial to nonlabor groups of the tactics we concede to labor organizations.

There may be room for pessimism. William J. McGill, 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 construction of the rules of orderly conflict between management and labor, embodied in our now classical concepts of labor law. We need a closely related legal framework for working with social change and with the conflicts engendered by the variety of liberation movements now developing on campus." This is a disturbing view. It should be clear that the management-labor model is a warfare model, and that its acceptance as the general mode of effecting change would be disastrous for law and social peace. The results, indeed, might be so intolerable that law would return in a far more repressive form than any we now know.

Even as we increasingly accept the absence or only partial effectiveness of law in many social controversies, we are simultaneously introducing law into others where it had never before had a role. One of the most striking developments of recent years is the ubiquity that law is attaining. This appears to be an unreflective trend rather than a self-conscious process that anybody has thought out. Law spreads and seeps into ever more aspects of life, claiming an omnicompetence it cannot sustain.

Law is growing from many sources. Floods of regulations are churned out by Congress, state legislatures, municipal governing bodies, courts, executive officers, and administrative agencies. Since the New Deal, we have become accustomed to massive intervention of law in the economic life of the nation, and now we are seeing a similar proliferation in social and cultural spheres. With the substance of much of this law I have no quarrel, but there are costs to the use of law, and in some areas of life the costs may exceed any conceivable benefits.

No society can be healthy and effective if all disputes are drawn into legal processes. The spread of law throughout human relations signals not only a decline in individual freedom but also a withering of community, traditional modes of accommodation, and informal authority. A healthy society requires that there be considerable play in human relations, a degree of trust in the good faith of others, confidence that things can be worked out tolerably, a willingness 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 and to enforce them by legal processes signifies 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 afforded by the universities, where there has been an unprecedented demand (and an astonishingly ready acquiescence to it) that everyone's rights be spelled out in written codes and that special tribunals be created to enforce them. In universities throughout the nation we have seen the adoption of codes, often quite complex, concerning student behavior, faculty and administration powers, the process of decision making within the university, and even such matters as discrimination in hiring by employers who visit the campus. Presidents and deans are stripped of wide areas of discretion, rights and duties are spelled out, special tribunals for indictment, trial, and appeal are created. The analogy to formal legal systems is so powerful that these procedures begin to pick

up elements of due process, right to counsel, proof beyond a reasonable doubt, exclusion of hearsay, peer group representation on tribunals, and so forth.

These developments are further along in universities than elsewhere, but various groups are beginning to make similar demands on other institutions. Demands that corporate boards include representatives of consumers, environmentalists, labor, racial and ethnic groups, and the like, represent a shift toward political decision making as the mode of governance of these organizations. And we keep hearing demands that the internal processes of corporations be judicialized—the theory being that large corporations have as much "power" as state governments.

REFLECTIONS OF PARANOID FEELINGS

The increasing legalization of our culture is a sign of the deterioration of the culture, and particularly the breakdown of community. Groups feel themselves set apart and requiring the protection of law from what is perceived as the hostility of strangers—people who not long ago would have been accepted as members of the same community. Such paranoid feelings are reflected, for example, in those student demands for codified rights. It makes little difference that the distrust is usually without objective justification.

Nor is it likely that law will significantly repair the broken sense of community. In an earlier article in this series ("The Angry Young Lawyers," September) my dean, Abraham S. Goldstein, was quoted as saying: "As home, church, and ideology began to lose their cohesive force, law was increasingly seen as a way not only of expressing preexisting norms but also of creating them." And of course law, though its capacities in that respect are probably quite limited, *can* help generate norms. But a reliance upon law to replace home, church, ideology, and the sense of community seems likely to make matters worse rather than better. The intrusion of law and its coercions is a continuing reminder that trust, community, ease of relationship, have diminished. When even relatively minor disputes are referred to the legal process, they become freighted with emotional and symbolic importance. The divisiveness inherent in adversary procedures begins to operate. Disputes are made more visible and the drama of conflict tends to polarize the participants.

Thus law does not always repair broken community; it may, on the contrary, put an additional strain at precisely the wrong time on the waning strength of home, church, and ideology.

The trend toward legalization does more than impair the ease and civility of life. It requires the diversion of time and energy from other tasks to those of manning the legal machinery. More than that, the uncritical extension of law to new fields—whether formal law made by legislatures and courts or the informal variety growing within universities and other institutions—brings into adjudicative settings decisions that do not belong there. Adjudication requires standards that are real and susceptible of proof. Law is full of instances in which lack of adequate criteria made the hearing process an empty ritual. Some time ago, as a result of statutory misreading, the Supreme Court demanded that the field prices of natural gas be regulated by the Federal Power Commission. Since the unregulated field price was competitive, regulation, if it was to accomplish anything, had to hold prices below competitive levels. For a variety of reasons, a cost basis made no sense, so the commission and the reviewing courts were left to decide cases without real criteria. At last report they were still floundering in their attempts to find law for the problem.

THE VALUE OF UNWRITTEN STANDARDS

Certain forms of discrimination present the problem of criteria that are real but cannot easily be established by evidence. It is easy enough to establish whether a person has been turned away from a restaurant because of race or sex—the variables are few. But employment discrimination presents a different problem. The decision concerning who is to be hired or not hired, who is to be promoted or passed over, does not always, or perhaps even usually, turn upon objective and quantifiable data. Such decisions also rest upon elements of judgment and intuition. On a case-by-case basis, therefore, the employer's decision will usually turn out to be unreviewable. Unless he admits bias, it is almost impossible to prove that he discriminated. This, it appears, is the reason federal programs 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, law intrudes in decisional processes that are better left to managerial discretion, and so renders institutions less effective and often less humane. Universities, for example, have long had standards of conduct that were customary and unwritten or, if written, so vaguely worded as to be in effect customary. People understood with tolerable certainty where the lines were. Administrators handled most infractions informally and were able to take account of such factors as the character of the student, the likelihood of repetition, and the morale of the student body. These are matters that a formal hearing process cannot deal with. Other difficulties aside, the mere adoption of an adjudicative setting makes such nice judgments about persons seem improper. The trappings of law raise expectations of impersonality and "objectivity." As control over the institution of formal proceedings is itself increasingly formalized, cases are made of situations better left to informal discussion or admonition.

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 of men rather than of laws is to be preferred. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs that the use of law entails, but then we should be skillful enough to frame the criteria in ways that law can handle. We must remember that law is a blunt instrument, and that we cannot use it effectively if we assign it tasks requiring a scalpel.

A NEED FOR LAISSEZ FAIRE

Law in our society is overextended in yet another sense. We have pushed too many policies that are too complex into the courts. In Judicial institutions as in economic units, there are problems of economies of scale, problems of optimal size and work load. The principle that some specialization is essential to effective work cannot be overlooked. No other nation thrusts as many policy issues upon its courts as do we. In such varied aspects of life as antitrust, labor relations, rules governing elections, entitlement to government benefits, and criminal-law procedures, courts are confronted with major substantive issues left unresolved by other branches of government.

As a result, American courts are overloaded with broad and profound questions of economics, sociology, political philosophy, criminology, and so on and on. They do not, it must be said in all candor, handle these questions very well. Very often they do not handle them even passably. 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 there has been a marked decline in judicial performance, and complex social policies are being deformed or rendered simplistic in the very process of their application. The two fields that I know best, antitrust law and constitutional law, are in states of intellectual chaos. My colleagues tell me that their fields of interest are in no better condition.

The lesson may be that a society cannot afford too many complex social policies, that some large admixture of laissez faire is required simply because regulation that might ideally be preferable will in fact, because of our inability to apply it without deforming it, turn out to be worse. Or perhaps the moral is that we must require legislatures to spell out their policies with considerably greater precision and specification than we now expect. In a society where customary modes of doing things are trusted, legislators can leave the detailed working out of policies to administrators, but that is no longer our case. And if we insist upon judicial participation in the application of policies, we must protect the judiciary by also insisting that legislators provide more guidance.

It is sometimes argued that we could devise new institutions to relieve the courts of some of their unmanageable tasks, but that is not a particularly happy thought. Beginning with the establishment of the ICC in 1887, we have spawned any number of administrative tribunals and agencies to frame regulations and decide cases, subject to judicial review. The results, most observers now admit, have been dreadful.

Yet somehow we must make the work of the courts more manageable. The alternative is to lose the benefits that courts can give us: scholarship, a generalist view, wisdom, mature and dispassionate reflection, and—especially important—careful and reasoned explanation of their decisions.

Related to these issues is a development that threatens considerable trouble in the future: the increasing use of litigation as a shortcut to the achievement of desired political and social ends. I do not want to be misunderstood here. Some political and social changes inhere in accepted legal principles, and litigation quite properly both discloses and forwards these changes. All the implications of a principle are not evident upon the first enunciation of it. Thus the principle of racial equality before the law, contained in the Fourteenth Amendment, quite properly resulted at length in the Supreme Court's decisions—in *Brown v. Board of Education* and the cases that came after—denying government the power to segregate or discriminate on racial grounds. Those litigations wrought an enormous change in our social 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 ask a court to order the change you want than to go through the time-consuming, expensive, and messy process of persuading voters or legislators. And there is always the possibility that the voters or legislators will see things differently from you. Naturally, many groups and individuals accepted the invitation to substitute litigation for politics. And the Warren Court too often responded by ordering change based upon no discernible principle other than the majority's personal views.

A CONFUSION OF ROLES

It should hardly be necessary to say that this practice is inconsistent with the most fundamental theory of representative democracy. Our Constitution and our political ethos do not call for general government by judges. Many of the results the Warren Court reached were, in my view, politically or socially desirable. I would have voted for them as a legis-

lator or as a citizen in a general referendum. But that does not begin to justify their imposition by a court acting on no existing legal principle.

The confusion of roles encouraged by the Warren Court undermines not only representative government but also the ability of law to govern at all. Though the Warren Court majority pleaded that it was merely applying the Constitution, that pretense fooled fewer and fewer people. Performance of this kind on the part of courts raises several dangers. Many people may decide that the claim of law itself to honesty, integrity, and neutrality is false. If law comes to be seen as something of a trick, political power will be seen as the only reality. In this perception lies the possibility of the destruction of the Supreme Court's constitutional authority. Worse still, those who decide that law is a trick will not easily distinguish between law made by judges and law made by legislators. Cynicism is not so easily confined, and disrespect for the Supreme Court may easily become disdain for what the Court symbolizes, the ideal of government by law rather than by whim, prejudice, or raw power. If the Supreme Court's power comes to be thought illegitimate, where will legitimate authority be seen to lie?

The perception that a Court is willing to be the political ally of certain causes, regardless of law, damages the moral authority of law, and law cannot be effective unless it carries moral weight as well as the threat of sanctions. Should any sizable and cohesive segment of the population come to feel that the only reason to obey law is the possibility of unpleasantness with the police, the costs of maintaining social order with present degrees of freedom will be prohibitive. We live in times when we cannot afford to dissipate any of the law's moral authority.

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 use law to bring about social change have been "creating expectations that are beyond fulfillment." He has warned: "Young people who decide to go into the law primarily on the theory that they can change the world by litigation in the courts I think may be in for some disappointments. . . . That is not the route by which basic changes in a country like ours should be made. That is a legislative and policy process, part of the political process. And there is 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 pattern of the Warren years. The habit of bringing to the Court 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 judicial system, and the Supreme Court may ultimately have to face them—suits seeking judicial determination of abortion statutes, the death penalty, environmental issues, the rights of women, the Vietnam war. 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.

The problem of social order is coming to the forefront in most advanced nations. Law must become more self-conscious if it is to meet the challenges that are being put to it. While it is not, of course, the only institution that creates social order, law is one of society's bulwarks, and it provides an impelling analogy or metaphor for social processes. Law is valuable for itself and because it teaches moral lessons to society. It is important that the lessons be the right ones. The right lessons will be taught only if we learn to use 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 has clear benefits to give, 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 the body of theory that their profession so desperately requires, there will continue to be unnecessary trouble in the law.

The stakes are far more important than the efficient functioning of law. The answer to the question "Is law dead?" is that law will never die. But a particular kind of law may die. Society will not long tolerate severe 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 stake, then, is not law but rather democratically made law allowing wide scope for individual freedom. That is worth preserving.

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POLITICS AND ACLU

(By Joseph W. Bishop, Jr.)

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Within the community of liberals the American Civil Liberties Union—now celebrating its fiftieth anniversary—has long occupied a place comparable to that of Dwight D. Eisenhower among Republicans. For half a century it has done more than any other organization to enforce the First, Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution of the United States. It has also labored diligently on the Fourteenth, which (as construed by the Supreme Court, with some prodding from the Union's lawyers) now extends most of the Bill of Rights to state governments. ACLU, spreading the protection of the Constitution to more and more people, has also spread itself like a green bay tree, and flourishes mightily. Its contributing members number 150,000, or one hundred times as many as in 1921, when it was quite feasible to list each and every contributor in the annual report of its founder and longtime head, Roger Baldwin.

Its annual cash income, in 1921 an exiguous $20,000 (which nevertheless sufficed for some considerable achievements), has registered an increase still more spectacular—it is now in excess of $2 million. The Union's resources are in reality much greater, for more than a thousand lawyers, some of them very talented, annually supply, without fee, services which would probably cost private litigants several million dollars. It has state affiliates, or so-called national chapters, in every state save Delaware and Idaho, plus several hundred local chapters.

These are impressive figures for a do-good organization. But the Union has impact and influence far out of proportion to its size and its tangible resources. It is a tireless and often effective lobbyist on Capitol Hill; it issues pamphlets and press-releases by scores and hundreds. Most of them land on target: in a period of approximately two years, no fewer than 311 stories in the New York *Times* alone reported the Union's doings and savings.[1] It would be hard to name another private organization which comes close to matching this record. Nor does the Union rely wholly on propaganda and persuasion; its lawyers actively litigate about a hundred major cases a year. And all of these activities are duplicated in the provinces by the affiliates and chapters.

As the Union's Legal Director, Melvin L. Wulf, sees it, all this activity is no more than a desperate stand at Armageddon, with the forces of Evil, under the gonfalons of Richard M. Nixon, John N. Mitchell, and J. Edgar Hoover, threatening at any moment to overwhelm the frail defenses of the Constitution. The best that Mr. Wulf could find to say in 1969 was that "we are not yet a fascist state in general." There is no evidence that his mood is any more sanguine today; indeed, the suggestion by seven (or perhaps eight) of the Justices of the Supreme Court in the New York *Times* case that there might be circumstances in which the government could restrain the publication of classified documents, caused him to compose a piece ("Tragedy of 'The Times' ") in which he virtually despaired of the Republic.

But this dyspeptic view is not general, inside or outside ACLU. A more dispassionate appraisal would be that the Bill of Rights, though its enforcement is far from perfect and its defense requires eternal vigilance, is at least in better shape than ever before in our history. The press, as recently demonstrated, has never been more free. (The segment of the radical press which likes to play at being "underground" is in fact not merely above-ground and visible but downright blatant. Its editors and publishers rarely risk anything worse than harassment by their creditors; its occasional difficulties with the law are caused by its penchant for pornography and scatology rather than its politics.) People accused of crime have more safeguards than they ever had before and probably more than in any other country in the world.

The basic democratic principle of one-man-one-vote is approaching reality. Political dissent has reached new heights of loudness and looniness. A stroll around Times Square shows how far we have come since the days when the cops raided Mae West and people who wanted to read *Ulysses* had to buy a copy in Paris and smuggle it through the customs. As Professor Alan M. Dershowitz of Harvard Law School, until very recently a member of the ACLU's national board of directors, put it a few months ago, "The long-term trend is clearly in favor of decreased repressiveness and increased democracy." If this is so—and I think it is—the American Civil Liberties Union deserves a very large part of the credit.

Despite its impressive record of accomplishment, all is not bliss and harmony, gas and gaiters, within the family of civil libertarians. ACLU in 1971 is probably a more controversial organization than at any time in its long and generally stormy career, which is saying a lot. The Union has, of course, routinely been accused of advocating Communism, pornography, polygamy, and atheism, whenever it defended the right of people who *did* favor these things 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 is chartered to defend; in effect, that it is being metamorphosed by its present active and activist management into an organism as totally different from the one which Roger Baldwin founded as the Chase Manhattan Bank is from the Manhattan Company, which the State of New York chartered as a water company in 1799. This time, moreover, the accusations come from within the Union, from people who can by no stretch of the imagination be described as enemies of freedom or opponents of social change, as well as from its traditional detractors.

A paradigm of the internecine strife among civil libertarians is the bitter and continu-

[1] I am indebted to George A. Bermann, a recent graduate of Yale Law School, who spent many hours digging in the *Times* Index and the microfilms of the Sterling Library.

ing row within the New York Civil Liberties Union over "community control" of public schools, particularly in the former Ocean Hill-Brownsville demonstration district. The NYCLU, controlled by an "activist" majority and headed by Aryeh Neier (who has since become the Executive Director of the national parent body), plunged into the fray on the side of what it supposed to be the community, thus necessarily involving itself in an envenomed conflict with the United Federation of Teachers, several of whose members the new school board was attempting to expel from the district.

The war whoop of the dominant faction was "social and distributive justice," a phrase having about the same precision of meaning as most slogans, but which was said to be the *sine qua non* of true freedom. A dissident faction protested that community control, whatever its merits or demerits, was a pure political issue, having nothing to do with the Bill of Rights. It seemed, indeed, to these Mensheviki that the proper issue for the NYCLU was the right of the teachers not to be sacked without the process due them under the law—and that on that issue the NYCLU had not only taken the wrong side, but had accompanied its action with gratuitous, inflammatory, and infuriating rhetoric. The immediate *casus belli* is no longer an acute problem—"community control" turned out to be something less than a burning issue to the actual inhabitants of the communities, who had not been much consulted by their self-elected champions—but the hostility between "activists" and "traditionalists" is still intense and is reflected in the parent organization, where both factions have partisans.

ACLU itself, as distinguished from its New York affiliate, was not directly involved in the decentralization brawl; its stated policy on community control of schools is pragmatic and carefully hedged and, indeed, insists on the teacher's access to school employment "regardless of race or ethnic origin." Although its constitution provides that the affiliates "shall act in accordance with the policies of the Union, with the understanding that the purpose of this requirement is to obtain general unity rather than absolute uniformity," it is a considerable understatement to say that the rule is not strictly enforced. When, for example, ACLU a couple of years ago issued a very cautiously worded, not to say apologetic, condemnation of campus violence, the staff lawyers of the New York affiliate immediately and indignantly accused it of "joining the repressive forces of society."[2]

But the directors and members of ACLU itself are similarly divided between "activists" and "traditionalists." (The staff seems almost solidly in the activist, or hyperactivist, camp.) The former believe the Union's mission is to crusade for such political causes as find favor in their eyes. The latter have an aggravating habit of pointing out that the Union's own constitution provides that its objects "shall be to maintain and advance civil liberties, including the freedoms of association, press, religion, and speech, and the rights to the franchise, to due process of law, and to equal protection of the laws . . . wholly without political partisanship."

Those of the activists who bother to debate the question reply that the Constitution of the United States, read with the eyes of faith, hope, and sometimes charity, mandates Good and prohibits Evil. The draft violates the Constitution; so does the war in Vietnam. On the other hand, the Fourteenth Amendment requires community control of schools (unless, of course, that control is exercised by the wrong people); the Fifth confers on the citizenry the right to live in an unpolluted, if somewhat buggy, environment, although not the right to use automobiles, air-conditioners, or insecticides. As phrased by the articulate Mr. Wulf, modestly speaking for "some of us who have some responsibility for the expanding role of the Union," "the true scope of civil liberties . . . can be as broad as the possibilities of the Bill of Rights."

This approach to constitutional law in its essentials differs very little from that which the National Association of Manufacturers used to advance against the National Labor Relations Act, the Securities Acts, and the rest of the seditious innovations of the New Deal. The less lawyer-like activists take the simple and forthright position that "Hyde Park speeches or Tom Paine leaflets" (the quote is from a Vice Chairman of the NYCLU) are very much less important than the struggle for "social justice" (not further defined) and the abolition of poverty, not merely in the United States, but also on the rest of the planet. I am myself in favor of social justice and against poverty, but I suspect that ACLU has a better chance of preserving individual freedom in the United States than it has of curing all the ills of the entire human race.

Despite the evangelistic sermons, most of what ACLU *does* still bears a reasonable relation to the old-fashioned goals set forth in its constitution. It opposes, for instance, all the ingenious devices for bailing out Catholic schools with the taxpayers' money; likewise it criticizes tax exemptions for religious property. It challenges the constitutionality of locking up people accused of crime when this is done not because they are likely to flee the jurisdiction (which is the only valid reason for denying liberty to those who have not yet been convicted), but because a judge is persuaded that they are likely to commit more crimes while awaiting trial. It fights unwarranted restrictions of the franchise, such as long residence requirements. Its opposition to censorship, whether of obscene movies or obscene politics, is firm and consistent. Such campaigns occasion no adverse comment by even the most conventional and unimaginative civil libertarians, like me. The new civil libertarians at least tolerate these traditional activities, although they plainly find them about as exciting as Civic Virtue. But they do not regard them as a sufficient excuse for the Union's existence.

The charge is also made that the Union's ardor in the defense of dissenters is greater when the dissenter is of leftish persuasion than when his deviation is to the Right. And in fact one is struck immediately by the general homogeneity of the politics of the people ACLU supports—draft resisters, black militants, campus radicals, bellicose peace demonstrators, and the like. Each of these groups has, of course, its own particular cause, but each is in general sympathy with the others; the *Weltanschauung* of almost all of them is that of the *Village Voice* and the *New York Review of Books*.

The major difference of opinion among the various sects of the faithful probably concerns the degree of force which is necessary and proper to usher in the millennium. The moderates and trimmers are willing to give the electorate a reasonable grace period within which to do God's will, before being forced to the conclusion that democracy is merely a device of the Establishment for the frustration of Social Justice; some of them are even willing to accept the decision of the majority, although not happily.

The ultra-progressives believe that radical reform necessarily and preferably entails a salutary preliminary cleansing with fire and gelignite. These, in the words of Samuel Butler, describing their 17th-century prototypes, "call fire, and sword, and desolation, a godly-thorough Reformation." The Union, of course, does not advocate any sort of violence; but a good many of its members and staffers undoubtedly view the terrorists as the ordinary law-abiding Catholic Irishman views the murderous fanatics of the IRA. They would not themselves burn banks, shoot policemen, or smuggle guns to imprisoned militants, but they have serious reservations about the propriety of repressing persons whose consciences dictate such forms of protest. Again I quote Mr. Wulf:

> . . . The crimes which the government is committing in the name of law and order are far more grave than the so-called crimes committed by private citizens, for the latter "crimes" consist of a disorganized conspiracy to force the government out of a brutal, aggressive war in Vietnam. . . .

Another of the conspiracy's objectives is the improvement at home of the condition of the poor and non-white. That objective necessarily requires the reallocation of public and private resources, and it is in defense of the present inequitable *status quo* that the government commits *its* crimes.

The Union has in the past on rare occasions 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 court's injunction against the racist rabble-rousing of the National States Rights party. The only part of that party's platform (which can fairly be described as a mirro-image of the agitprop of the Black Panthers) which would have been likely, if only in the light of hindsight, to draw cheers at an ACLU meeting was its fervid denunciation of the then governor of Maryland, Spiro T. Agnew.

But in none of the ninety-odd court cases listed in the most recent report of the Legal Director can it be said that ACLU is representing a right-wing client or cause. (It is involved in a peripheral aspect of the case of Sirhan Sirhan, but his politics, though they took the form of assassinating Robebrt Kennedy, are of the Palestinian Arab variety and do not really correspond to any color in the American political spectrum.)

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 so forth are at the moment conspicuously inconspicuous; the Klu 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 seditious than denounce Mr. Nixon as a turncoat; their closest approach to violence is to sport "Nuke the Chinks" buttons—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 principally to embarrass the other party—as when, for instance, Gover-

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[2] This is as appropriate a spot as any to emphasize the point that it is very unfair, but unfortunately very easy, to judge ACLU by the harebrained harangues sometimes emitted by local affiliates and local staffers over whom the national board has no control and not much influence. The problem is compounded by the frequent failure of the press to distinguish between the national organization and the affiliates; to most reporters they are all ACLU. Some of ACLU's own propaganda contributes to the confusion. A recent circular, signed by ACLU's Executive Director, states that "in thousands of courts across the country, in the state legislatures" and Congress, ACLU is resisting what Mr. Neier calls "a concerted attack on American liberties." This reference must be intended to include many of the activities of the affiliates and chapters.

nor Williams of Massachusetts asked the Union to join him in suits to enjoin *de facto* segregation in Northern cities, or when Charles Morgan, the Director of the Southern Regional Office, offered to defend Lester Maddox's right to picket the offices of a couple of Atlanta newspapers. (Since Morgan did not propose to join Maddox's picket line, and nobody was threatening to arrest Maddox for picketing, it may be suspected that the offer, which was refused, was not intended very seriously.

A more substantial problem was presented by William F. Buckley's contention that his First Amendment rights are violated by the insistence of the American Federation of Radio and Television Artists that he must pay dues to the Federation in order to conduct his TV program. If Mr. Buckley's purpose in asking ACLU's help in his suit was to embarrass it, he plainly succeeded, for the national board took nearly a year to make up its mind to turn down his request.

The political uniformity of ACLU's clientele is thus not entirely a result of its own political predilections, except to the extent that potential right-wing clients may suspect that their reception in its offices would be somewhat reserved, or even chilly. But a study of its press releases and the comments of its spokesmen on current events does suggest that its views on freedom depend very much on who is interfering with whose freedom of speech and action.

Thus, when the Chairman of the House Committee on Internal Security (the contemporary, and on the whole much subdued, avatar of the House Committee on Un-American Activities) proposed to publish a list of Old and New Left revivalists on various campuses, ACLU denounced it as an exercise of Congressional "power to smear individuals and organizations" and brought suit (successful in the District Court) to enjoin the publication. But I am not aware of any such nobly outraged reaction to Wright Patman pillorying of the Penn Central Railroad and its officers and directors—some of whose alleged transgressions are, or are likely to be, the subject of litigation.

Nor were there cries of "smear" when Representatives Abzug, Dellums, and like-minded statesmen and stateswomen proposed "hearings" to demonstrate that Mr. Nixon and his co-conspirators favor war crimes. I am not at the moment debating the propriety or legality of these Congressional publicity plays; I do suggest that it is hard to see why one is a "smear" and the others are not. Similarly, the New York Civil Liberties Union called on its members to boycott California grapes; but the Wisconsin affiliate denounced an advertisers' boycott of an "underground" paper. Both ACLU and the affiliates are properly critical of the use by the police of excessive violence on demonstrators; but criticisms of violent demonstrators have been few and gentle, usually being prefaced by tributes to their noble ideals.

The same selectivity is displayed in the Union's view of foreign governments. When Prime Minister Trudeau dealt (effectively) with the terrorist activities of the Front de Liberation du Quebec, by issuing emergency regulations under Canada's War Measures Act, which for a limited period authorized search without judicial warrant, detention and questioning without the filing of criminal charges, and suspension of the right to bail, the Union reacted promptly and forcefully: "The Board expresses its sympathy with the efforts of the Canadian Civil Liberties Association to resist summary measures of repression, and urges efforts through the International League for the Rights of Man, as well as private efforts in this country, to raise from other sources the funds needed to meet the Canadian emergency"—the word "emergency," of course, having exclusive reference to Mr. Trudeau's counter-measures rather than to the FLQ's campaign of kidnapping and murder. But I am not aware of any similar preachments on the Castro regime, whose far more summary measures of far more severe repression ought to be far more offensive to American civil libertarians.

As a rule, however, the charge that the Union is a zealous defender of the right to disagree with ideas with which its management also disagrees is based less on its official statements of policy, as expressed in its Policy Guide, than on the statements of its staffers, who are not always careful to distinguish their personal opinions from those of ACLU. Policy Number 234, for example, which deals with military justice, advocates various reforms in the court-martial process (the most important of which has in fact been enacted since the policy was formulated in 1966) but certainly does not suggest that military courts are intrinsically unfair or demand their abolition.

But Charles Morgan of the Southern Regional Office has been quoted as saying that "There's just no point in having any sort of trials conducted within the military. The military is incapable of understanding the Constitution."

The Legal Director, Melvin Wulf, some of whose remarks have already been quoted, is another staffer with an unfortunate talent, amounting almost to genius, for overstatement. He really seems to see no difference between the President and Vice President of the United States and Hitler and Goebbels. Mr. Nixon favors "The use of violence and brutality against individuals who are portrayed by the minister of propaganda [Mr. Agnew] as depersonalized instruments of revolution and anarchy, who are guilty of 'philosophical violence.' "

Mr. Agnew believes that "crimes of ideology . . . may justifiably be suppressed. He therefore encourages the primitive use of government power—including imprisonment and censorship—against those who would prefer a different order of social priorities from his own." Mr. Wulf's style, although not distinguished by clarity or originality, is filled with a verjuiced rancor against people who do not see the light as it is given to him to see it.

This makes his pronouncements better copy than the comparatively carefully phrased resolutions of the national board. He is, for example, bitterly critical of the lawyers for the New York *Times* in the Pentagon Papers case, who seemed to be more interested in winning their client's case on comparatively narrow (but adequate) grounds, than in insisting on a sweeping construction of the First Amendment which could not have been sold to more than one or two of the Justices. His cast of mind is understandable enough; if you really believe that America stands where Germany stood in 1932, that Dachau and Belsen are ready to reopen for business here in the United States, it is hard to maintain a sense of proportion. By the same token, as the sense of proportion atrophies, it becomes easy to entertain such apocalyptic and apoplectic visions.

The disease of utter humorlessness, it should be noted, is endemic among ACLU activists—a sad change from the days of Roger Baldwin and Ernest Angell—and sometimes produces episodes which have much the same quality of farce-tragedy that made great art of disasters which used to overwhelm Buster Keaton. Eason Monroe, the Executive Director of the Southern California affiliate, wrote a scholarly essay on the evils of censorship as an introduction, prominently advertised on the cover, to *The Illustrated Report of the President's Commission on Obscenity and Pornography*, published by Greenleaf Classics.

The publishers had, however, failed to inform Mr. Monroe that the illustrations were far from scholarly, being largely taken from one of the Danish pornography fairs. (ACLU chastely described them as "sexually explicit.") When last heard from, Mr. Monroe, whose apparent function was to give the publication what the Supreme Court calls "redeeming social value," had retained counsel to sue Greenleaf Classics; the question of freedom to publish is viewed from a new angle when an eminent civil libertarian is himself placed in a scandalously false light.

A similar note is struck by the cryptic comment of the ACLU of the State of Washington, which had undertaken the defense of a group of alleged terrorists, on the disruption of the trial, including the macing of the Union's lawyer, the arrest of a number of spectators, and the citation of the accused for contempt of court: "In the wake of the collapse of the trial, a good deal of thinking is being done by people in the Washington affiliate about the ACLU role in major political [*sic*] prosecutions of radicals." (In general, ACLU's thinking about courtroom disruption seems to lead to the conclusion that the prosecutors and judges are to blame; the record is bare of criticism of unruly defendants and their lawyers. Indeed, the Union spent its money to reprint and circulate an article glorifying William Kunstler.)

Like the Legal Director, other staffers and many of the directors and members of the Union tend to see political persecution in every case in which the defendant is a radical—that is, of course, the right kind of radical. (The Union is unlikely to set up much of a howl about the political persecution of the Ku Klux Klansmen recently collared by the FBI on charges of blowing up school buses.) The Union's official policy is unexceptionable: the motivation—political, commercial, or personal—of a crime is irrelevant; the question is whether the particular conduct can constitutionally be made criminal. "For us," says the Policy Guide, "the single question is whether the act involved is the violation of a valid law or one we believe is invalid. In the latter case, we will defend the violation of law; otherwise we will not."

But the Union's intervention in some "political" cases is hard to square with its stated policy. Last spring the national board voted 49 to 5 "to provide direct representation to any or all of the six defendants in the Berrigan case who might want ACLU representation." The first reaction of most liberals is to applaud this decision. Second thoughts, however, leave me wondering what reason, other than warm sympathy for the Berrigans' doctrinal views, ACLU has for spending its time and cash—of which latter it has none to spare—in defending them and their catechumens.

The statutes which they are accused of violating seem clearly constitutional: neither blowing up government property, nor even kidnaping Henry Kissinger, has yet been held to be a protected form of symbolic expression. The Berrigans and their acolytes are certainly not so friendless and unpopular that the Union's intervention is necessary to secure them due process and competent counsel. They have, in fact, been represented by squads of eager lawyers, some of them competent. Their press notices have ranged from friendly to adulatory; the average *Times* reporter can scarcely mention their names without genuflecting.

There might indeed be a civil-liberties issue if the indictment were so patently unfounded and incredible as to justify the inference that its purpose was not to obtain a valid conviction but simply to harass and persecute. History is, however, full of evidence that there is nothing preposterous, or even improbable, in the proposition that religious zealots, convinced of the righteousness of their particular orthodoxy, may under-

take criminal acts *ad majorem Dei gloriam*. The Brothers Berrigan are entitled to a fair trial, 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 enlisted men and for refusing to obey a lawful order, does present some genuine and important constitutional questions. But the case was not, on its facts, a good one for testing the First Amendment rights of servicemen—the charge of disobeying orders did not, in my opinion, raise any 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 appellate courts) whose connection with 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 appendices, and signed by no fewer than eight lawyers, *after* the issue (whether the lower federal courts had erred in refusing to enjoin the Army from even prosecuting Levy) had been made moot by the completion of the trial. The constitutionality of Levy's conviction could still, of course, be litigated 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—the petition may be described as a reckless hurling of mobs of frenzied but undisciplined adjectives upon the *chevaux-de-frise* of the Solicitor General—other than infatuation with Captain Levy's political philosophy.

ACLU's actual involvement in the various criminal prosecutions of Black Panthers has been limited to issues of due process, which so far have not proved very serious. More Panthers have been acquitted than convicted, some on evidence which might well have supported a finding of guilt. (The doubts 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 fact is that the Panthers are likely to benefit from their right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippi juries.) But some of ACLU's spokesmen swallowed whole the theory that the Panthers were being persecuted for their political views, not merely by being tried on trumped-up charges of murder and the like, but by being themselves murdered by the cops.

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, John de J. Pemberton, who accused police across the country of "provocative and punitive harassment" of the Panthers. Mr. Wulf weighed in with a declaration that the state (meaning, apparently, the government of the United States) was "fascist" from the Panthers' point of view: "The evidence," he pronounced, "is clear now that there is a government plan to destroy the Black Panthers as an organized political movement." Whether or not," he went on darkly, "there is a memorandum in Washington which sets out the details of the program, or a 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 from Washington for murder as an instrument of policy."

This lie (which, I should in fairness add, Mr. Wulf did not invent, but merely believed, repeated, and embellished in his own peculiar style) was demolished as thoroughly as such a lie can ever be demolished by Edward Jay Epstein's remarkable report in the *New Yorker* of February 13, 1971; Epstein concluded, after a thorough and objective investigation of the alleged twenty-eight deaths, that in only two was there substantial—although by no means conclusive—evidence of police aggression. But the conspiracy-to-murder-the-Panthers lie will probably have as many lives 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. Wulf still believes it, and I suspect also that in this respect he is not alone among the Union's activists.

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 nonviolent expression of political ideas, however obnoxious, for that, under our Constitution, cannot be a crime—rather less than garden-variety felons.

Muggers, porch-climbers, and securities swindlers do not, as a rule, give themselves airs of virtue. But the "political" arsonist or rapist, if the cops catch up with him, is anything but repentant: he glows, in fact, with self-approval. His crimes, he informs the victims (placing both nouns in quotation marks), were inspired by a superior wisdom and a morality too elevated to be comprehended by the dull wits of the electorate. Such an attitude is, of course, contagious; even criminals of lesser intellectual and moral pretensions are very ready to be persuaded that their homicides and robberies were in reality gestures of protest against the repressive System, and that they are, in fact, political prisoners.

In the same manner ACLU rationalizes in terms of civil liberties and the Constitution crusades whose purpose seems to me clearly political. Thus, the national board recently voted to give "top priority" to an end-the-draft campaign, resolving that the Selective Service Act is unconstitutional. 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 1863; and not since that year (when a state court, 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 Warren, speaking for the Supreme Court in 1968, said that "the [peacetime] power of Congress to classify and conscript manpower for military service is beyond question," and the Court is about as likely to hold otherwise in the foreseeable future as Cardinal Cook 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 have no armed forces at all; but that should not be the business of the American Civil Liberties Union. Litigation to establish the *unconstitutionality* of the draft is simply a waste of money and time which its lawyers might better spend on real issues of civil liberty.

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 unwise, but unless and until Congress exercises its power to withhold 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—whether, for example, a member of the armed forces can 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, implausibility and even pettiness, 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 and civilians from military encroachment as to gratify a political dislike of the armed forces, at least when they are controlled by the wrong civilian politicians. It is one thing to defend the right of servicemen to patronize offpost coffeehouses established to serve up hot coffee and hotter propaganda or to disseminate "underground" newspapers on the post; it is quite another to litigate the constitutionality of the Army's haircut regulations.

There is probably no connection between short hair and military virtue: the Cavaliers, with their "long essenced hair," were beaten by the Roundheads; but the longhaired Spartan hoplites ("The Spartans on the sea-wet rock sat down and combed their hair") were the best disciplined and bravest warriors in Hellas. Yet however weak the military justification for the Army's regulation, the right to wear one's tresses in a pageboy bob is hardly of the same magnitude as the right to speak one's mind, and in it is the last degree unlikely that the courts will interfere with this aspect of military discipline. Likewise, nerve gas is nasty stuff, and, if I live in Oregon, I would prefer to have the Army dispose of it somewhere else; but when it is reported that ACLU has filed suit to enjoin its shipment from Okinawa to Oregon I am quite unable to see the connection with civil liberty.

And how can suits to enjoin underground nuclear blasts 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 granting permits to drill in the Santa Barbara channel is not convincingly explained by the argument that the drilling would violate the Fifth Amendment by depriving the people of Santa Barbara of property without due process of law. (It may be noted in passing that neither I nor my diligent research found any other instance of concern 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 motiviated by political ideas other than the protection and promotion of civil freedom are marked by a strong hostility to the government. The degree of hostility varies, of course, with the degree of conservatism of the government in power, but I suspect that even Senator McGovern would not enjoy a long honeymoon.

As Mr. Wulf put it, "Governments, perhaps by their very nature, perceive every threat to the *status quo* and to their own power as an assault which justifies the use of physical force." This extraordinary statement recognizes no distinction between the governments of the Third Reich or Soviet Russia and that of the United States. It ought to be too obvious to require saying that in my lifetime, and Mr. Wulf's, the United States has undergone enormous

changes, some of which Mr. Wulf would probably regard as good. Some of these changes were resisted by the governments in power when they were first proposed, but very rarely by jailing or shooting the proposers. I expect that the United States will change as much in the next fifty years as it has in the past fifty, and I expect that it will do so more or less peacefully.

The government of the United State is, in fact, one of that small minority among the earth's governments which *does* provide for change by democratic and constitutional means and in which there is no justification for resort to violence to coerce changes in policy. All historical experience tends to show that personal freedom can exist only in a fairly stable and prosperous society. Civil liberty is, in the last analysis, a luxury, although a very great one.

The truth—maybe sad but nonetheless true—is that the ordinary specimen of *homo sapiens* would rather live under an absolutist government, which assures him two or three meals a day and protection against oppression by anyone except itself, than under a permissive and democratic government which does neither; an ordinary citizen of Calcutta would probably, if he could chose, trade his right to a free press (which is largely theoretical, because he hasn't the price of a newspaper and couldn't read one if he had), plus his right to damn the Congress party, for the relatively full rice bowl of an ordinary citizen of Canton. A man whose government does not protect him from thieves and marauders is likely to lose concern for criminal due process and to support the first strong man who promises short shrift for criminals.

The stability of the government of the United States and the survival of the liberties provided by its Constitution depend on its continued ability to enforce its constitutional laws by constitutional methods—including laws which are unwise, but not unconstitutional.

It ought therefore to be a truism that in this country the public interest and the interest of the government are not always, or even very often, antithetical. But the "activists" within ACLU, who are so strongly represented in its professional staff—i.e., its active management—barely recognize that the public has any interest at all in the government's preservation of stability and order or in the protection of the United States from internal and external violence.

In the New York *Times* case, the most that ACLU's brief in the Supreme Court conceded, and that grudgingly, was that the government "could conceivably" prevent publication of secret codes, designs of new military 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 permitted publication of the Allies' plans for the invasion of June 6, 1944 or Israel's plans for the air strike of June 5, 1967. Knowledge of either of these important government decisions would doubtless have contributed to informed public discussion of many issues, but I suspect that not even Justice Black, faced with such circumstances, would really have held that publication could not be restrained.

A few years ago, in *United States* v. *Robel*, the Supreme Court struck down a statute which made it unlawful for a member of the Communist party to work in a defense plant, regardless of whether there was any evidence that he was himself likely to engage in espionage or sabotage. Chief Justice Warren said that "nothing we hold today should be read to deny Congress the power under narrowly drawn legislation to keep from sensitive positions in defense facilities 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 sufficiently precise and narrow to satisfy the First Amendment, was that "we would of course oppose this section even if it met every standard set down in *Robel*." In the eternal process of balancing the public's interest in security and stability against its interest in personal freedom, it is difficult to think of any recent instance in which the Union has been willing to give any weight at all to the former. The gravestone of the Weimar Republic ought to be a reminder of the fact that there is, after all, some public interest in allowing a democratic and constitutional government to protect itself.

The Union's chronic hostility to government is mirrored by its general indifference to assaults on freedom of speech and association by various New Left groups, which on campuses, at least, are a much more serious 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, obstruct movement. . . ." But actions to implement these commendable principles have been few and feeble—an occasional letter to the newspapers expressing disapproval of some unusually outrageous disruption, such as the shouting down of pro-war speakers at Harvard last March. (Many similar episodes seem to have altogether escaped the notice of the Union and its spokesmen.) There have been no interventions, no briefs *amici curiae*, no press releases supporting authorities who tried to prevent or punish such violence.

On the contrary: when the University of Connecticut obtained an injunction against the making on campus of obscene and disruptive statements in connection with demonstrations against recruiters representing 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 interferences with free discussion, like a bill which would authorize the Attorney General to seek injunctions against "disruptive noise" at public gatherings.

But it is very sensitive—properly so—to private interferences with the New Left's right to express itself: when printers, for example, refused to set type for an issue of *Scanlan's Magazine*, which consisted largely of what the printers regarded as a sort of Field Manual for urban guerrilla warfare, including a how-to-do-it piece on the construction of cheap, simple, and efficient bombs, the Union's Executive Director announced his intention to sue the printing company.

The Union's policy on disruptive students attempted to salve their sensibilities by acknowledging that they were "moved by conscience to use extraordinary means [a euphemism for violence] in the belief that ordinary means have failed in creating a more just and equal social order." Although the printing-shop foreman said that it was "a matter of conscience" for him, and presumably thought that the social order would be none the better for an infusion of pipe bombs and Molotov cocktails, he got no similar encomium from the ACLU.

Perhaps it is too much to expect any special-interest pressure group to be fair or objective in its attitude to what it regards as the enemy. Moreover, the Union suffers from a problem created by its very success: to find new battles and victories its staff seems to think that it must push farther and farther toward, and beyond, the outer limits of freedom (not only of speech, but of action) and must, indeed, become a political pressure group.

But the Union's attitude toward a constitutional and democratic government need not and should not be always, or even usually, that of Ralph Nader to General Motors. The Union has done far more good than harm. I *think* it still does, but the question seems to me much closer than it used to be. The policies of its present management risk a considerable, and I think undesirable, change in its base of support—from a large number of people, having very different political views, but sharing a common belief in the virtues of the Bill of Rights, to a rather smaller and politically homogeneous group whose belief in civil liberties for everybody, including oldthinkers, is in some cases very dubious.

SESQUICENTENNIAL CELEBRATION OF THE BIRTH OF CHARLES REED BISHOP

Mr. FONG. Mr. President, on January 25, 1972, the sesquicentennial celebration of the birth of Charles Reed Bishop, a great adopted son of Hawaii, will be held in Honolulu.

Charles Reed Bishop became a resident of Hawaii almost by accident in 1846. He was on his way to Oregon by way of Hawaii but when he saw the verdant hills and beautiful tropical panorama that is Hawaii, he decided to make it his home.

At the time of his setting in Hawaii, it was still a monarchy under the rule of Kamehamela II.

During his 46 years in Hawaii he contributed much to the growth of the island kingdom and he is fondly remembered in the many cultural, charitable, religious, educational and commercial interests to which he gave unstintingly during his lifetime.

I ask unanimous consent that a brief biography of Charles Reed Bishop's life in Hawaii be printed in the RECORD.

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

CHARLES REED BISHOP

A tollhouse in the middle of the bridge over the Hudson River at Glen Falls, New York, was the place where Charles Reed Bishop was born, January 25, 1822. Glens Falls along with Honolulu and San Francisco were the great cities of the areas where he spent all his life. His birthday is being celebrated throughout these places in January 25, 1972, his one hundred fiftieth or sesquicentennial birthday.

After a thorough elementary education through the eighth grade in which English in all phases, received greatest stress, young Bishop worked at farming on his grandfather Jesse Bishop's farm. He left this to enter employment in two stores, the first one in Warrensburgh and the other in Sandy Hill. Between the farm and stores he gained another education. Today, we would call this on-the-job training. Glens Falls was the center of factories, farms, marble quarries, lime kilns, brick and lumber yards—to mention only some of the industries. He became, through farming, store clerking and bookkeeping, very knowledgeable in principles of commerce and industry.

But he was attracted away from this area of his youth by newspaper accounts of settlers in Oregon. He and a friend, William L.

Lee packed up and sailed away from Newburyport, Mass., thinking they were headed for the green lush country of Oregon. But when their storm and wave battered ship, the brig *Henry*, anchored in Honolulu harbor in October 1846, after eight months of rough going, the two men decided to remain in Honolulu.

Bishop 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. He became a citizen of the Hawaiian Kingdom and was appointed Collector General of Customs. On June 4, 1850, he married beautiful 18 year old princess Bernice Pauahi Paki. He was on his way to becoming one of the greatest benefactors the Hawaiian Kingdom has even known.

With another local man, Willaim A. Aldrich, he opened a store and closed it out in 1858 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 we note the names of Mills Institute and Kawaiahao Seminary later merged as Mid-Pacific Institute, Kohala Girls School, Hilo Boys Boarding School, East Maui Seminary, Sacred Heart's Convent and St. Andrews Priory. He was closely involved with both Punahou School and the Kamehameha Schools. At the former he was trustee, vice-president and finance committee chairman for thirty years. He contributed both money and real property along with sage advice to the founding and growth of the Kamehameha Schools. He was president of the trustees of the B. P. Bishop Estate, foundation of the Schools from 1884 to 1898. On the public school side he was made a member and then president of the Board of Education under King Lunalilo, continued as such by King Kalakaua and Queen Liliuokalani and the heads of the succeeding governments, Provisional Government and Republic of Hawaii—twenty-one years of public school service.

In the field of religion he gave support to the old Fort Street Church and its successor Central Union Church, Kaumakapili and Kawaiahao Churches. The North Pacific Missionary Institute, headed by his close friend the Rev. Dr. Charles M. Hyde, was solidly assisted as was the Hawaiian Board of Missions. He paid for and erected the Bishop Memorial Chapel on the Kamehameha Schools Campus in his wife's honor.

Hospitals ever had an appeal for him. He was from its founding date a chief officer and director of the Queen's Hospital. He gave modest assistance to the Children's Hospital, Kapiolani Hospital and Leahi Hospital and funded and constructed the Bishop Home for Girls and Young Women in Kalaupapa, Molokai, the site of the leper settlemore.

Other broad community interests of Mr. Bishop included the YMCA, the public library—he was a founder of the Hawaiian Historical Society—the Sailor's Home Society, American Relief Society and many more.

In government he was Collector General of Customs, member of the legislative Privy Council, member of the House of Lords, Board of Immigration, Chamber of Commerce, and under King Lunalilo he acted as a member of the Cabinet. He was Foreign Minister.

He received the honorary Orders of Kamehameha I and Kalakaua. The Emperor of Japan made him a member of the Order 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 substantial size and in some instances worked as a board member or as president or treasurer. 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 investments in lands and stocks and bonds. 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 Hawaii 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, 1915, age 93.

In his loyalty to his adopted native land of Hawaii he asked that his ashes be placed alongside those of his wife in the Royal Mausoleum in Nuuanu Valley of Honolulu.

Perhaps the best comment that can be made of Charles Reed Bishop may be found on his grave marker in the Royal Mausoleum: *Builder of the State-Friend of Youth-Benefactor of Hawaii His Ashes Rest in the Tomb of the Kamehamehas.*

The agencies and organizations among the cultural, charitable, religious, educational and commercial interests of Hawaii with which Charles Reed Bishop had some association almost made up 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.
Castle & Cooke.
Central Union Church.
Chamber of Commerce.
City and County of Honolulu.
City of Glens Falls, New York.
Board of Education.
Dillingham Corporation.
First Hawaiian Bank.
Hawaii Conference United Church of Christ.
Hawaii State.
Hawaii State Schools.
Hilo Boys Boarding School.
The Kamehameha Schools Alumni Association.
The Kamehameha Schools.
Kapiolani Maternity and Gynecological Hospital.
Kauikeolani Children's Hospital.
Kaumakapili Church.
Kawaiahao Church.
Kindergarten and Children's Aid Society.
Kohala Girls School.
Leahi Hospital.
Mauna Olu College.
Mid-Pacific Institute.
North Pacific Missionary Institute *
Punahou School.
Queen's Medical Center.
Sacred Hearts Convent.
Sailor's Home of Honolulu.
St. Andrew's Priory.
Salvation Army.
Social Science Association.
Theo. H. Davies & Co., Ltd.
Waialua Seminary *.
Young Men's Christian Association.

* *Closed.*

ANTITRUST AND PHASE II

Mr. HARRIS. Mr. President, most of our newspapers and of the Senate itself 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 a Federal judgeship 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 only offer their congratulations. As the distinguished Senator from Michigan (Mr. HART) pointed out at the time, those who have come in contact with Mr. McLaren have come to respect and admire him. I am confident that he will prove an able and fair judge.

But while I am pleased to see Mr. McLaren elevated to the court, I must state my dismay that it was done at this time. In recent weeks, alone in the administration, Mr. McLaren has distinguished himself by vigorous statements pointing to the dangers inherent in the phase II program for our economic system. In an address made in Boston on November 5, Mr. McLaren stated in this regard:

> It almost goes without saying . . . that collaboration among competitors should be discouraged to insure that they continue to compete—not conspire—on prices. Otherwise, in the absence of effective price competition, the ceiling standard set by the Price Commission might also become the "floor." 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 impaired, instead of strengthened, and we can certainly agree also 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 price controls grew in power and contained their price influencing activities long after wartime conditions had disappeared. The result was a heavy burden for the economy over many years.

Already there are some signs that this may happen under phase II. On November 11, foodstore chains in New York, New Jersey, and Connecticut banded together to announce in a joint full page New York Times ad that their prices would always be at or below ceiling prices. In the November 17, 1971, Wall Street Journal 29 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 collusion 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 what 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 he has been giving "saber-rattling" speeches warning firms that phase II controls should not be used as an excuse for corporate price fixing.

Now he is gone—the Wall Street Journal suggests perhaps even fired, because of his active role—and as a result during this crucial period the Justice Department's Antitrust Division will be without 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 position at precisely the time when experience should be at a premium.

I read with interest Attorney General Mitchell's statement December 8 that administration interest in antitrust would not diminish 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 new cartels, but also to dismantle existing cartels which are inflicting such an enormous price in inflation and unemployment on the American people.

But 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 the steps he will take to insure that 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 soon 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 SUDDENLY LEAVES AGENCY POST

(By Louis M. Kohlmeier)

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 the President took office in January 1969. But he traded his antitrust prosecutor's role for a federal district court seat in what, as it's currently being reconstructed, appears to have been an unprecedented kind of whirlwind affair.

Mr. McLaren last Wednesday filed what probably was the biggest antitrust case 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 Cooperation and Development.

With Mr. McLaren unreachable for comment in Europe, various rumors circulated in Washington concerning the abruptness of his agreement to leave the Justice Department's Antitrust Division.

But, whatever the circumstances of the departure, his nomination and confirmation unquestionably were unusually swift. One Justice Department aid commented, "I've never seen anybody get confirmed so quickly."

Judge Julius J. Hoffman in Chicago, whom Mr. McLaren will succeed, commented in a telephone interview that the speed of Mr. McLaren's nomination and confirmation was "without precedent."

The events leading up to the whirlwind apparently began several weeks ago. Judge Hoffman said he notified President Nixon "three or four weeks ago" of his intention to retire from full service on the federal district court in Chicago and assume the role of senior judge. But according to Justice Department aides, the President didn't acknowledge Judge Hoffman's letter until last Wednesday.

It isn't known when on Thursday the White House sent to the Senate Mr. McLaren's nomination to succeed Judge Hoffman. Mr. McLaren's name was routinely posted in the White House press room along with the names of several other federal court nominees at some time between 4 p.m. and 5:15 p.m. Thursday, after most of the White House press corps had left for Florida in advance of a Nixon trip.

But the McLaren name was almost overlooked, in the White House press room and the Senate also. Because the administration obviously had alerted key Senators, the Senate confirmed the nomination without debate and it passed so quickly on Thursday afternoon that Sen. Hart (D. Mich.) chairman of the antitrust subcommittee, immediately rose to inform the Senators that "we have just confirmed the nomination of Richard McLaren (who) has served as Assistant Attorney General in charge of antitrust."

Mr. McLaren then telephoned Judge Hoffman and took off for Europe.

Judge Hoffman will continue to sit until the President signs Mr. McLaren's commission and he's sworn in. The swearing-in is expected to take place shortly after Mr. McLaren returns to this country on Dec. 21.

His closest associates inside the Antitrust Division didn't know their boss was leaving his job until late Thursday. A number of them yesterday expressed "disappointment" as well as surprise, not only over his departure but also because he accepted a federal district court judgeship. Some other prior heads of the Antitrust Division have held out for appointments to federal appeals courts.

Mr. McLaren was in private law practice in Chicago before he came to Washington in 1969, thus the court appointment means an opportunity to return home.

But he has taken many positions that have angered businessmen and some other administration officials. Some of his policies, such as his opposition to the recently enacted Newspaper Preservation Act, which granted the newspaper industry certain antitrust exemptions, weren't accepted within the administration. On that and similar occasions, rumors circulated that he was about to resign. But he consistently denied such rumors.

In recent months, however, Mr. McLaren's tough line seems to have aroused even more opposition. For instance, the Antitrust Division has insisted that there should be more competition in the securities industry. The division pursued that line for months in hearings before the Securities and Exchange Commission, but its policy became potentially much more threatening to the Big Board when the suit against commission rate fixing was filed against the Chicago Board of Trade.

In addition, Mr. McLaren in recent weeks has been delivering what his staff calls "saber-rattling" speeches warning businessmen that the administration's Phase 2 price controls shouldn't be used as an excuse for corporate price-fixing.

Rumors that Mr. McLaren thus was forced out of his job as the administration's chief antitruster couldn't be confirmed or refuted.

But his departure, for whatever reasons, seems certain to result in a softer brand of antitrust enforcement. This assessment, according to close observers of the Antitrust Division, stems from the relationship Mr. McLaren enjoyed with Attorney General John Mitchell and the fact that Mr. Mitchell also will leave soon to be Mr. Nixon's campaign manager for the 1972 presidential election.

Mr. McLaren brought to his job in 1969 years of experience as an antitrust lawyer in private practice and a firm commitment to antitrust principles. He also had been a leader inside the American Bar Association on antitrust law matters.

Anyone who heads the Antitrust Division and presses for vigorous enforcement eventually generates substantial opposition, not only in the business community but also inside government agencies such as the SEC and the Commerce Department. Even though such opposition is often registered with the Attorney General or the President, Mr. McLaren survived because he enjoyed Mr. Mitchell's confidence and protection, and because the Attorney General is very close to President Nixon.

Neither the White House nor Mr. Mitchell's office has made any comment on the McLaren matter.

MITCHELL DENIES LOSING ANTITRUST CHIEF MEANS WEAKER ENFORCEMENT—MCLAREN'S SUCCESSOR IS EXPECTED TO CONTINUE HIS VIGOROUS ROLE; SOME EXPERTS REMAIN DOUBTFUL

WASHINGTON.—Attorney General Mitchell denied that the departure of Richard W. McLaren as the Nixon administration's antitrust chief will mean less-vigorous enforcement of the antitrust laws.

But the denial didn't allay fears of some antitrust experts that softer enforcement will result, particularly when Mr. Mitchell himself resigns soon.

The Attorney General, apparently responding to a news story in yesterday's Wall Street Journal, issued a statement saying it is "absolutely untrue that Mr. McLaren's appointment to a federal district judgeship in Chicago will means softer antitrust enforcement. Mr. Mitchell said, "Mr. McLaren's successor, as Assistant Attorney General in charge of the Antitrust Division, will be called upon to continue the same vigorous enforcement we have seen under this administration." He didn't say who Mr. McLaren's successor will be.

The statement noted that Mr. McLaren has headed the Justice Department's Antitrust Division for three years, longer than "all but two of his predecessors in the last 30 years." Mr. Mitchell added that many lawyers aspire to appointment to the federal judiciary and said Mr. McLaren "indicated some time ago that he would be interested in serving on the federal bench."

One alumnus of the Antitrust Division nevertheless said of Mr. McLaren's departure: "I am fearful of the consequences for antitrust enforcement." Another, who's in 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."

Still another commented that any "likely successor isn't apt to enjoy Mitchell's confidence," as Mr. McLaren did. "Chances are against that nice blend of a guy who is competent enough and who has the support of the Attorney General on politically hard cases." This McLaren predecessor added that the post of antitrust chief "is a cruel job. You never make brownie points; you only make enemies. Three years is about all anybody has in that job."

Such assessments reflect the fact that Mr. McLaren 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.

Despite his detractors, Mr. McLaren has enjoyed the support of his boss, Attorney General Mitchell. Mr. Mitchell, however, is widely expected to resign soon to become President Nixon's 1972 campaign manager the same position he held in the 1968 presidential race.

TWENTY-NINE TOOL MACHINE BUILDERS AND GENERAL ELECTRIC SAY: "YOU CAN BOOST YOUR PRODUCTIVITY—NOW, WE'LL HELP"

Twenty-nine leading machine tool builders and the General Electric Company [1] have joined forces to help you do something about lagging productivity.

We are investing millions in an inventory of numerically controlled machine tools, so we can respond quickly to the demand that is sure to hit as the economy gets rolling again. Shouldn't you be ready too?

Now is the time to order your new NC machine tools. Here is why:

1. In an economic upturn, NC machine tool orders have traditionally surged and delivery has stretched to 18, even 24 months. You can get delivery now in as little as three months.

2. Proposed guidelines promise a 3–4% annual increase in the gap between gains in wages and prices. Improved productivity can close the gap, but to wait means only more lost profits.

3. Delivery of an NC machine tool in early 1972 can mean substantial tax savings—through depreciation write-off and investment tax credit.

4. Thanks to automation, foreign productivity is growing up to four times as fast as our own. Time is running out. Even if you now have excess capacity, you can't compete with an inefficient plant. As the economy moves up, will you be ready to move with it?

We say "Buy now or pay later." Which will you do? Let's get together to ensure your competitive strength in the tough years ahead. Call any of us.

A REPORT TO NEW YORK/NEW JERSEY/CONNECTICUT FOOD SHOPPERS—WHAT YOU SHOULD KNOW ABOUT THE FOOD PRICE FREEZE

The price freeze that began on August 15 was designed to halt the inflationary spiral that has been crippling all segments of our society. This is an absolutely necessary national goal and the requirements of the freeze demand compliance by businessmen and understanding by consumers if they are to work.

Those of us who operate food chain stores in the New York and New Jersey and Connecticut area pledge to you our total compliance with the rules and regulations under which the price freeze is being administered.

At the same time, you as a food shopper should know what those requirements actually are, and that is the purpose of this report to you.

Most—but not all—of the products you buy in a food store may not be priced during the freeze period higher than the highest price charged for the item during the 30-day period between July 15 and August 14, 1971, or the price charged for the item on May 25, 1970.

This sounds simple, but it is not, for under normal competitive conditions prices for hundreds of products are moved up and down each week. But we have established the actual ceiling price for all of our food items and you have our assurance that no price authorized in any of our food stores on price-frozen items has been higher than that allowed by the freeze regulations.

You can still expect to see prices vary from week to week, mostly because we each want to attract you to our own stores with special sale items. But it is important to remember that if the price for an item in one of our stores this week is higher than it was last week the price increase is not in violation of the freeze.

Furthermore, not all prices are frozen. The regulations here are somewhat complicated, but the key thing to keep in mind is that prices of unprocessed foods such as fresh fruits are not controlled and may move up and down as market conditions dictate.

The place in which you will see this happening most frequently is that 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 they add up to is this:

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 up on this?

The regulations provide a number of ways in which shoppers can check prices to assure themselves that they are no higher than the established ceilings. Some of these are quite time-consuming from the shopper's point of view.

One last word, after November 14, Phase II of the President's New Economic Program will go into effect and many of the regulations may be changed from those that we have reported to you here. Since the regulations are still being written, we have no idea at this time what they will require us to do.

You have our assurance, though, of two things:

First; As soon as the regulations are issued, we'll explain them to you as we have in this ad.

Second; Whatever the regulations are, we will comply with them.

Those of us who have signed this ad happen to believe that you should have ready access to this information so that you can check things out for yourself.

In order to do this, we have provided every manager of every one of our food stores in the New York, New Jersey and Connecticut area with a book listing the ceiling price of every controlled food item in our stores. This was not required of us by law, but we believe you have the right to check for yourself, particularly since we know how important food prices are to your budget.

So if you have a question about a price in any of our stores, ask the manager for a look at the ceiling price book. We want you to.

Bohack's, D'Agostino's, Daitch-Shopwell, Finast, Food Fair, Grand Union, Gristede, Hill's King Kullen, Kings, Mayfair/Foodtown, Packard's, Pantry Pride, Pathmark, Shop-Rite, Stop & Shop, United/Foodtown, and Waldbaums.

NEW ANTITRUST PROBLEMS FOR THE GENERAL COUNSEL—PHASE II

(An address by Richard W. McLaren, Assistant Attorney General, Antitrust Division, before the Fifth New England Antitrust Conference, Boston Bar Association)

I am delighted you have asked me to participate in the fifth annual program of the New England Antitrust Conference. These programs, I believe, are of great importance to members of the bar in providing antitrust counsel for their clients. Such programs are also most important to those of us in the antitrust enforcement agencies.

The functioning of the antitrust laws in securing competitive benefits depends in large part on the extent and quality of private antitrust counseling. Your program today provides further assurance of corporate compliance tomorrow.

I

In another, related area of compliance with law, I would like to point to the remarkable demonstration we have seen under Phase I. On August 15, Americans were called upon by the President to freeze prices and wages in our economy. The response of the companies and their employees has been overwhelming. At the outset of Phase I many questioned whether the freeze would work. It was said that a huge government bureaucracy 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 it is a tribute to the American people 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 dangerous trend of inflation has been restrained 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 contemplates only a temporary interruption of our free system of pricing. It does not represent a perpetual system of controls.

Although, under the circumstances, the freeze and post-freeze came as good news, they also reflect the plain fact that we had to freeze prices and wages because our free enterprise system fell down in the fight against inflation.

In Phase II we are now required to have representatives of the public at the collective bargaining table on wages, and in the board rooms where price decisions are made. There appear to be a number of reasons which contributed to the need for these measures, some involving factors which are not the fault of the system. Thus for years the Japanese yen and the German mark were pegged at an advantageous level in relation to the dollar in order to help those countries in their post-war building programs. With the floating of the dollar, American companies have been relieved of this handicap, Also, as you know, negotiations are also under way for the removal of other tariff and non-tariff trade barriers. As a consequence, we should see some definite improvement in our foreign trade.

But, in my view, this is not enough. We must reexamine our whole economic system to identify and to deal with all sectors in which competition has failed, or been prevented, from performing its function. Historically, free enterprise has been the most effective economic system in the world. As Justice Black pointed out in the *Northern Pacific Rr.* case, it is designed to

". . . 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." To many, it is already becoming clear that we must place increasing reliance upon competition for better allocation of our national resources and for improved efficiency in our industrial economy. We must determine where and how competition has been impeded—whether by industrial concentration, by collusion among firms; by inadequate labor-management relations machinery, by ill-advised government regulations

[1] Supplier of numerical controls to companies shown.

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 expected that legislation which would increase competition in the nation's surface transport system will soon be submitted to Congress. This is a much needed reform and deserves your wholehearted support. I suspect that more of the same is needed.

As a further measure against inflation, we must demonstrate renewed vigor in the enforcement of laws which promote rather than retard competition. We must also determine whether the existing laws dealing with competition are adequate to deal with problems of abuse of economic power in today's economy.

II

Turning to the near term, I think I can safely say that Phase II will pose some very demanding questions for antitrust lawyers.

As you know, the Administration is relying heavily on voluntary compliance rather than a big regulatory apparatus to make Phase II work. Much will depend upon individual decision-making under standards to be laid down by the price and wage groups. Under this kind of system, as you might suspect, the antitrust laws will continue in full force and effect. As Secretary Connally noted in his recent press conference, 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 obectives of the program. In other words, even if the law did not compel continued enforcement, we would not be inclined 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 and our ability to compete abroad. As President Nixon stated in his address announcing the new post-freeze program, this "can be a year in which the American competitive spirit is reborn, as we 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 selective industry-by-industry basis. It follows that those industries which are most competitive will be the first to have controls lifted.

III

What are the mechanics of Phase II and what do we as antitrust counsel have to guard against in this period? As you probably know, Phase II will be administered principally by the Price Commission—which will promulgate price standards and hear specific requests for price increases—and the Pay Board—which will deal with wages. These boards will take a three-tiered approach to the economy. Both the Board and the Commission will identify certain firms and collective bargaining units that are most critical 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 by the boards as having less impact on the control of inflation or for which advance notice is not practical. This category will be required to provide prompt notification, after the fact, of all price and wage increases. Such increases may be rolled back by the boards. A third, and by far the largest, class of firms and collective bargaining units—as well as unorganized workers—will be monitored by the Internal Revenue Service through spot checks and the investigation of complaints. Detailed procedures have yet to be announced, but the expectation is that the Price and Wage groups will provide explicit standards to which all concerned will tailor their economic behavior during this critical period.

I think it is helpful in determining appropriate business conduct in this period to refer to the history of this nation involving earlier government price control efforts. Four times before in this century, national emergencies have required that the federal government intervene in the marketplace to control prices and wages. In three wartime situations—World Wars I and II and Korea—price control was established to meet military needs. The demand for essential war materiel dislocated all markets. This required wage and price controls as well as the rationing of scarce consumer goods. The free functioning of market forces was set aside during this period to assure the nation's survival. The fourth instance of government price control occurred during the great depression. The N.R.A. experiment arose from the desire to serve basic human needs: food, work and shelter to millions of our citizens. It then seemed desirable to attempt to raise prices and wages by delegating to industry the power to establish minimum prices and codes of "fair competition."

Today price controls have been evoked to aid in halting inflation. Although the economic factors which give rise to the many controls of Phases I and II are in many ways different from those experienced when the nation was at war or suffering under a depression, the teachings of the earlier control periods are, I think, most valuable.

In World War I price control was effectuated through negotiations and agreements with trade associations. In setting prices for iron and steel, for example, the Price-fixing Commission of the War Industry Board delegated the task of determining price differentials to the industry's Iron & Steel Institute. The trade association of steel manufacturers thus attained the power to fix prices for hundreds of products.

Although the use of private trade associations may have been thought a necessary tool during the War, these cartel-like groups grew in power and continued their price influencing activities long after wartime conditions had dissipated. And the participating companies—as well as the economy—eventually paid a heavy price for these activities. Businessmen were exposed to many costly government and private treble damage proceedings in the 1920s.[1]

A similar wave of antitrust prosecutions and treble damage suits followed the demise of the National Recovery Administration in the 1930s. The Antitrust Division mounted an intensive attack against industry price schemes which survived N.R.A.,[2] and Congress itself initiated a sweeping investigation of business.

Price controls established in World War II also spawned antitrust violations. There are indications that the heavy electrical equipment conspiracies were fostered by industry meetings held in conjunction with World War II OPA Advisory Committee activities. The conspiracy continued after the demise of OPA.[3]

In the most recent experience of this country with price controls—Korea—the government attempted to institute 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[4] 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 retained complete freedom to institute civil or criminal proceedings.[5]

Nevertheless, during the period that the Office of Price Stabilization existed, the Justice Department expressed concern over the agency's failure to provide transcripts of the meetings of advisory committees, and over the adoption of anticompetitive pricing methods such as basing points, zone prices and identical delivery prices. The Celler Committee likewise was critical of OPS for failing to establish procedures to assure competition.

I assure you that the Administration has these earlier experiences in mind. It recognizes that it is of the utmost importance that procedures and regulations of 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 the other administrative authorities will weigh very carefully the need for joint industry presentations and other cooperative activities, on the one hand, against the risks such procedures entail, on the other hand. Perhaps in some instances adequate protection may be found in the way trade association statistics are now sometimes handled—by outside accounting firms.

On the other hand, I am sure it would come as no surprise to the bar if the Price Commission should structure its information-gathering activities on a confidential company-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-

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[1] For example: U.S. v. Corrugated Paper Manufacturers Association; U.S. v. Southern Pine Association; U.S. v. Cement Manufacturers Protective Association; U.S. v. Gypsum Industries Association; U.S. v. National Association of Window Glass Manufacturers; U.S. v. Maple Flooring Manufacturers Association; and U.S. v. Western Pine Association; see "Final Report of the Executive Secretary" to the TNEC, 77th Cong. 1st Sess., 1941, p. 26.

[2] In the short period between the end of N.R.A. and World War II, a number of Sherman Act cases were brought against leading American companies. U.S. v. Socony-Vacuum Oil Co., Inc.; U.S. v. Standard Oil Co. (Indiana); U.S. v. Aluminum Co. of America; U.S. v. Paramount Pictures Inc.; U.S. v. Hartford Empire Co.; U.S. v. Masonite Corp.; U.S. v. American Optical Co.; U.S. v. U.S. Gypsum Co.; U.S. v. American Tobacco Co.; U.S. v. Corning Glass Works; U.S. v. General Electric Co.; U.S. v. Dow Chemical Co.

[3] "The Incredible Electrical Conspiracy. Part I", Fortune, April 1961, p. 136.

[4] 64 Stat. 803 (1950).

[5] Letter dated Nov. 7, 1950, Peyton Ford, Dep. Att'y Gen'l, to Alan Valentine, Econ. Stabilization Adm., Administrator.

petitors should be discouraged to insure that they continue to compete—not conspire—on prices. Otherwise, in the absence of effective price competition, the ceiling standard set by the Price Commission might also become the "floor." 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 impaired, instead of strengthened, and we can certainly agree also that we want to move away from—not toward—greater regulation.

IV

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. One path leads to greater and continuing governmental controls upon the economy; another leads to renewed vigor in our system of competition and free enterprise. The signposts for the road we take are difficult to read. Yet, as President Eisenhower once said:

"Free men do not lose their patience, their courage, their faith, because the obstacles are mountainous, the path uncharted. Given understanding, they invariably rise to the challenge." [6]

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 solution to the next. And in between emergencies, Congress has been content to ignore the underlying problem—inadequate and ineffective legal procedures for dealing with emergency strikes which seriously endanger the public interest.

The distinguished Senator from Ohio (Mr. TAFT) has been a leader in bringing badly needed 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 TAFT'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 that this excellent editorial be printed in the RECORD.

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 concern with labor legislation 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 result in loss of agricultural products ready for market; or the dock strikes which resulted, he said, in the loss of $40 million in fresh fruit and vegetables, or a coal strike which shuts off power and imperils hospitals and schools.

The Taft proposal would give the secretary of labor several new options in a prolonged strike. He could order an extra 30 day cooling-off period after the present processes had been exhausted, or he could 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 to Congress last year but never given the time of day.

In addition, the senator would permit employers to do away with "unproductive" work rules not related to health or safety, providing no employees were fired and employee pay were raised if cost reductions resulted from the change of rules.

All in all, the Taft plan appears to be equitable to both sides in a labor dispute while at the same time setting up the machinery which could avert 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 a total disinclination for 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 is clear—the discussion 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 our aid programs this year while we reevaluate past assumptions, goals, and programs.

This premise is the one which the Foreign Relations Committee, itself, has accepted. In its report the committee noted 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 as human obligation to follow through on these programs. Whatever the defects, developing countries 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 assistance package. In recognition of this fact, and in respect for the ideas these organizations have had in development assistance, I ask unanimous consent that a statement on aid by 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 and the realities in the developed countries.* These reports all emphasized that experience has shown that economic progress alone, without 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 recommend how the voluntary agency-government relationship can be responsive to the broad nature of the voluntary agencies' overseas involvement. We place special importance on this statement as we fully recognize that any governmental or voluntary aid programs which do not integrate the strength and resources of both government and voluntarism will fall short of the desired objective to go beyond economic development alone.

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 themselves." The United

[6] Address in New York, N.Y., April 22, 1954.

* The Peterson Presidential task force, the Pearson commission, the Jackson working group, President Nixon's Foreign Aid Message of September 15, 1970.

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 range of private initiatives—citizens 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 development activities, farm workers' organizations, farm owners' organizations and educational associations. In all cases, however, the essential ingredient is the *responsibility 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. They have thousands of personnel in more than 100 foreign countries. Their staffs, both American and overseas nationals, include experienced technicians in agriculture, community development, rural education, nutrition, medical care, family planning, engineering, social services, education, vocational 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 with a network 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 centers around the world. Food donated by the U.S. Government as well as by other governments is used for self-help, community development, nutrition education, nutrition supplement, and a wide variety of activities that promote self development.

DISASTER AID

Voluntary agencies have stand-by organizations that move into action within hours of a disaster. They divert ships carrying food, fly charter planes of medicines, vitamins, innoculations, antibiotics, clothing, etc. from their own stocks and from purchases as well as contributions. They cooperate closely with the United States government, international agencies and local 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 community-based leadership and competence in counselling, resettlement, 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 in development. They bring experience, knowledge of conditions and human resources at the community level. They are a symbol of hope at the "people level" in most areas 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 with root causes of poverty is equally humanitarian as short term relief. Many agencies invest a great part of their resources, both finanical and material, in one form or another of social and economic development. They are an essential element in human development.

THE NEED FOR CONTINUITY AND FLEXIBILITY IN VOLUNTARY AGENCY OVERSEAS 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 Holland, for example, governments provide funds to voluntary agencies for development and allow the agencies relative independence to carry out programs in their own specialized way. While cooperating fully, the agencies nevertheless retain their identity and independence as an 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 human development programs. President Nixon emphasized this in his Message of September 15, 1970 when he said that "sudden and drastic disruptions in the flow of aid are harmful both to our long-term development goals and to the effective administration of our programs". Continuity in funding and the provision of supplies, e.g. PL 480 foods, is important to the voluntary agencies. But continuity, as well, in goals and in the understanding of their programs on the part of government is vitally important.

VOLUNTARY AGENCY WORKING RELATIONSHIPS WITH GOVERNMENT

For the past twenty-nine 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 coordination with overall policy 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 enhanced so that the scope of the office of Special Assistant include refugee and migration activities now carried on by various other departments, bureaus and agencies in Government.

GOVERNMENT FUNDING OF VOLUNTARY AGENCY PROGRAMS

Adequate funding for PL 480, the ocean freight subsidy, refugee and migration problems, disaster aid, special contract and grant arrangements should continue. In addition, funding should also be provided for voluntary agency social and economic development programs overseas.

A TRULY INTERNATIONAL EFFORT

The voluntary agencies endorse the proposal for a partnership among the nations in pursuit 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 organizations international and other national, and with intergovernmental organizations, including the United Nations specialized agencies.

We are convinced that multilateral as well as bilateral government-to-government action in substantial size will be of great significance in the foreign assistance field for some years to come.

RECOMMENDATIONS FOR LEGISLATION AND ADMINISTRATION OF AMERICAN FOREIGN ASSISTANCE PROGRAMS

1. Recognize the essential role of voluntary agencies in development and make available an appropriated source of funding for 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 programs funded and supported by the United States Government.

5. The Impact Fund of the American Ambassadors in developing countries should be increased so as to provide flexibility in supporting self-development projects sponsored by voluntary agencies and local groups.

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 escapees should be reaffirmed and appropriately implemented.

9. Provision should be made for flexible authority in the basic immigration statutes for admission of refugees in reasonable numbers and for authority to meet emergency situations arising from the rapidly changing world 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 urged young people to participate in the political process, to make a contribution to the goals of the American future. Grounding his plea for participation in a basic optimism for the future, President Nixon listed the possibilities for action to which young persons could address themselves.

The President's willingness to challenge young Americans represents 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 NATIONAL 4–H CONGRESS

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 which history will remember as a great period of emancipation for young Americans. Your generation has the opportunity to participate more fully in the American adventure than 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 at 33 authored the Declaration of Independence. Sixteen other patriots in their thirties, 3 in their twenties, and Franklin at 70, joined Jefferson as signers.

In the course of two centuries things changed. By the 1950s, when you were born, generational stereotyping and pigeonholing by age groups were all too common. Most 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 beat 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 shook the Nation, writing a record dominated by remarkable good but shadowed with ominous wrong—civil rights laws and urban riots, campus reform and academic anarchy, a war against aggression in Asia and a war against that war in our own streets, a surge of participation in politics and a wave of terrorist bombings, a rich new diversity in life-styles and a grim new plague of drug abuse.

All in all, it was a time when youth 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 integrated individual participation in the larger society. It was forced into that form by the rigid generational walls erected in American attitudes and institutions 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 several important realizations. They saw that to regard a person's date of birth as more important than his own unique individuality, is to indulge in the insidious bigotry called "age-ism." They saw that it is wasteful, stupid, and unjust to restrict the generations in a narrow structure in which those in the middle of life would monopolize the centers of power, while the young would plod along in apprenticeship or chafe in alienation, and the aging would draw social security, preferably well out of sight. They saw that it was time to pull down the generational stereotypes—involved, hip, silent, beat 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 turmoil has subsided sharply—not in resignation but in wisdom. High schools and young working people, the next declared target of the radicals, have not caught fire. Opinion surveys have detected a rising disgust with political radicalism even in strongholds of the counterculture.

Most of you are not only witnesses to these developments, but leaders in them. You could not be leaders in a more important cause. For the more convincingly the young majority demonstrates its resilience and level-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 idolized. You deserve better than that. And you shall have better, for America is moving rapidly to take you into full partnership as individuals. Your country knows how much it needs you—and we are proving that, not just with talk but with action.

We need your voice in the political process, as soon as you are 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 I have directed departments and agencies throughout the executive branch of the government to recruit young talent and hear young ideas; and 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 energies in the urgent work of helping the less fortunate across America and around the world. That is why we have moved to expand and improve the Peace Corps and VISTA programs by merging them to form a new volunteer service agency, ACTION. That is why we have initiated the University Year for ACTION to draw thousands of college students into this effort. And that is why we have also worked outside government, to make voluntarism a vital force in the independent sector—so that every single American who wants to serve his fellowman can have an avenue for doing so. Young people today especially are more generously committed to human betterment through voluntary service than any generation before you. Your own work in 4–H has shown what mountains that commitment can move; I urge you to redouble it, to share it, and to maintain it throughout your lives.

We need to be sure you are free to shape your own career along 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 its pressures on young men, and why we are moving rapidly toward the goal of a zero draft and an all-volunteer armed force. That is why we have pressed for a new college 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 something over 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 issues, goals, and directions. That is why we turn the 1971 White House Conference on Youth into the most wide-open forum "of, by, and for young Americans" ever held. Once a decade since 1909, older people had been meeting at the President's invitation to talk about youth; but we felt that kind of generational condescension was out of step with the Seventies, so we turned the conference over to the young themselves. I am the first to tell you that not everything they did and not everything they said lined up with my own point of view. But I totally recognize and defend their right to say it. Certainly the time when the young are to be seen and not heard is gone in America—gone for good.

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 conferees called their sense of "kinship with persons of good will of all generations."

This sense of kinship, forged into a firm new alliance of the generations, will be essential if we are to seize the breath-taking opportunities opening up for America and the world in the coming decades.

The greatest of these opportunities is peace—peace not just for a few years, but for a whole generation. Such a peace is coming, and the United States is leading the way.

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 defuse the explosive situations in the Middle East and the Indian Subcontinent. We have acted to end the isolation of nearly one-quarter of the world's population in China. We have moved from confrontation to negotiation with the Soviet Union, with limitation of nuclear arms, relaxation of tensions in Europe, and increased trade among the possible results.

The world that is taking shape as a result will be far less dangerous than the one you have grown up in—but even more challenging. Political, economic, and military power will be concentrated in many centers instead of just a few. Competition in the works of peace will be intense.

But it will be an open world, and quite literally a new world—one in which more than 60 new nations and 60 percent of the people living today have been born since

World War II. It will be a world where America's fabulous economic and technological advances, which have gone into war in the generation past, can be turned more fully to the service of mankind in the generation ahead.

And then—when the manacles of war at last are struck off the hands of the American giant—our potentialities will know few bounds. Together, we can work toward conquering hunger, poverty, disease and ignorance—at home and around the globe. We can achieve a new birth of vitality in our democracy, our economy, our arts and culture. We can strike a new balance between quantity and quality in national growth, and between dynamic cities and a healthy countryside in this wide land. We can rescue a threatened environment and form a higher partnership with nature. We can truly build a new America in a new world.

This is why I say that the most exciting time and place to be young and alive, in all the record of mankind, is here in America, now in the Seventies. From the very first, we have been a people who set high goals, dreamed large dreams, and shared from the heart with our brother men. But what sets these times apart from any earlier period in our history is that we now have not only the will to work miracles but the actual means to achieve them.

The heavy responsibilities of world leadership, and the restless perfectionism that nags at our national life, can seem burdensome at times. We can feel tempted to complain about them. And yet how provincial and craven such complaining is. The power not merely of wishing good but of doing good is granted only sparingly to men and nations—but that power in full measure is destiny's great gift to the United States today. Generations before could yearn for peace; we can build peace—and we are. They could feel compassion for the oppressed, the destitute, the refugees of the earth; we can provide help for them surpassing all other nations—and we are. They could speculate about political, economic, and social systems that would set the human spirit free; we can fashion such systems—and we are.

We can do these things—but so much depends on you who are young. How committed will you be? Listen to Thoreau: "Cast your whole vote, not a strip of paper merely, but your whole influence." You have the freedom, almost literally, to reach the stars—and with it comes the responsibility to stretch for them with all your might. Don't let your hearts grow earthbound, for the universe is out there waiting for you.

In the spring of 1963, when the first sweet taste of freedom came to Communist Czechoslovakia, a group of students marched to party headquarters at midnight and shouted for the reform leader, Alexander Dubcek, to confront them. They were impetuous and impatient—full of that young fire which our Youth Conference delegates called "the rage of love for . . . unimplemented principles . . . and . . . unfulfilled potential." Dubcek came down in the street to talk to the students, and one of them asked him, "What are the guarantees that old days will not be back?" "You yourselves are the guarantee," replied Dubcek. "You, the young."

You know the rest of the story. The hopes of the Czechs for freedom met reversals, but the words of their leader are not less true for that. Here in America "the rage of love" has not burned out in young hearts, but the flame is purer now, fed with new reason and realism. Man's destiny of freedom is in your keeping and under your guarantee. With a lifetime of adventure and promise before you, I have every confidence that that splendid destiny is in good keeping—and that you will make good its guarantee.

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, 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:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 30, 1971.

Hon. ABRAHAM RIBICOFF,
Senate Office Building,
Washington, D.C.

DEAR ABE: Week before last, you engaged in some colloquy on the Floor of the Senate related to a report by the Comptroller General on the effectiveness of the poultry inspection service of the Department of Agriculture.

That report contains on page 16 the following sentence: "The inspectors reported some deficiencies in sanitary conditions in each of the 68 plants."

Understandably, you infer from that that the GAO found that every plant had some deficiency when inspected, an inference that I would have also drawn and one that was drawn by more than one representative of the news media in Little Rock, Arkansas.

One of the plants visited by GAO representatives is located in Little Rock, C. Finkbeiner, Inc. C. Finkbeiner called me to complain that the GAO report was misleading because, on the day in question, inspectors found only one minor deficiency.

My own personal review of the facts has resulted in a letter being written by Comptroller General Staats to Finkbeiner advising the Finkbeiners that this is the case and when the Comptroller General made a copy of that letter available to me, it occurred to me that you might be interested in reading it.

I do not do this critically but only in the interest of clearing the record, an interest that I am sure you share.

With kindest personal regards and best wishes, I am

Sincerely yours,

WILBUR D. MILLS.

[Enclosure.]

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., November 30, 1971.

Mr. FRANK FINKBEINER,
President, C. A. Finkbeiner, Inc.,
Little Rock, Ark.

DEAR MR. FINKBEINER: The staff of Congressman Wilbur Mills has advised us of the adverse publicity your firm received following the release of our report to the Congress on the continued weak enforcement of Federal sanitation standards at poultry plants by the Consumer and Marketing Service, Department of Agriculture (B–163450, November 16, 1971).

Our report was designed to focus attention on the manner in which the Consumer and Marketing Service was carrying out its poultry inspection responsibilities, not on individual poultry plants. For this reason, the report did not contain the names of poultry plants visited by us during our review. The names were subsequently released through congressional sources.

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 each 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 evaluated by the inspector was the one involved in the processing of poultry products.

Conditions 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 that 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 this period 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 all our 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 like UNESCO is what builds the infrastructure and the hybrid character of our "global village." It brings interdependency, close acquaintance, and human welfare.

For 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 necessary 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 forth the corollary that—

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 specialists and professionals from about 100 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 Social Council of the U.N.—ECOSOC—but it determines its own programs and budget through the wishes of its 135-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 meeting place for men of similar intellectual interests, a place where cultural concepts of one nation might be made available to the cultural connoisseurs of other nations, UNESCO today is vastly more than a forum for an 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 worldwide 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 the stepping stone to the United Nations world environmental conference which will be held in Stockholm next summer. This will be the first world conference on 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 research, oceanography, or satellite communication. Under UNESCO's auspices nations meet and carry on a variety of successful international projects such as International Geophysical Year, a joint scientific exploration 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 UNESCO's task during 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 tangible 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 in the past 25 years American publishers and manufacturers of educational materials have realized a return of some $33 million from sales to UNESCO. But in general, UNESCO remains outside the mainstream of American life.

I cannot help but question if this is really to our advantage. I view the crisis in American education, for instance, and ask if there is not something we might gain from the UNESCO family if we sought its aid and guidance in solving our educational problems. I question, also, if we might not better deal with the great powers emerging in the Far East if we used, for example, UNESCO's bank of cultural information on Asia or on other cultures.

These are times of great soul searching and the United States at the end of 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 a creation of the United States as of any other 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 digest for all of us the raging flood of technical and sientific data. 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 grow with it.

Mr. President, I want to bring to my colleague's attention some articles which describe in some detail individual UNESCO programs. One of the more interesting is the UNESCO report on 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 a certain comic boredom to too large a percentage of the debates and votes in the Assembly, while the realities of power 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 and often enough the smaller powers on the free-lance basis that was once thought to be the one 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 condition of men and nations 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 outshadowed those of the U.N. proper.

In 25 years, UNESCO has brought the blessings—and the dilemmas—of literacy and learning to millions. It has brought the hope of life extended and life expanded to masses whose history and culture prepared them for a chancy life and an early death. Within the limits of its financing, which have always been stringent, UNESCO has at least begun to attack 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 attic of humanity's hopes.

But regardless of the fate of the parent organization, UNESCO continues to represent those hopes in action and in significant achievement. If the U.N., by no means through its own fault, has been unable to bring peace on earth, 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

(By 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 here in recent months and 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 New York Times—recommends establishing a world network of such research centers coordinated by a reactor 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 129-page study in hand, a number of diplomats and educators, including Dr. Andrew W. Cordier of Columbia University, are now predicting 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 research common problems, is not new. Alexandria'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, and sponsor of such undertakings to promote international understanding.

DUBBED "THANT U"

In fact, U Thant has been such a strong advocate of the idea that in some circles here the proposed institution has been dubbed "Thant 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 to his annual report 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 that both groups have reached essentially the same favorable conclusions.

As presently envisioned, the university would not offer any undergraduate studies. No degrees or dipolmas would be issued.

The graduate research staffs would be drawn to the school's scattered units for periods of a few weeks or years. To avoid aggravating the "brain drain" from developing countries, no appointments would be permanent.

Some of 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 oriented around "problems affecting mankind 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 exceptional objectivity and carrying great moral weight," UNESCO said.

The research units would be supervised by the rector from the university's headquarters. Neither report recommends a particular site, although UNESCO said the location should be readily accessible to other institutions of higher learning and in a politically stable area free of high social or regional tensions.

UNESCO: RECORD OF SUCCESS

This month marks the first quarter century of UNESCO, that portion of the United Nations' iceberg which lies largely unseen beneath newsier peaks. Filled with achievement, employing 3,500 people from 125 member states, and in many ways the most successful venture of the United Nations, UNESCO functions under a constitution that starts this way: "Since wars begin in the minds of men, it is 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. Many of these young women and men have functioned as not only teachers but examples to their contemporaries and to traditionally trained local colleagues. Precisely ten years ago UNESCO trained the first African secondary schoolteachers south of the Sahara Desert. Now there is a stream of 2,000 graduate teachers 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, primary 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 prototypes of the hardiest and least expensive school buildings for developing countries. Other money and effort have gone into the creation of fifty engineering colleges and technical institutes, which now enroll more than 50,000 students and have graduated upwards of 16,000 men and women 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 may one day restore the deserts of northern Africa to the status of the granaries of the world since these and other desolate tracts of parched earth account for one-third of the globe's land surface. Earthquake-measuring stations that chart the history and behavior of these natural catastrophes have, through UNESCO research, helped every country that lies over a fault line.

On a planet where nearly half the children cannot go to school, 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 the same, the organization's highly successful symposiums of anthropologists, geneticists, ethnologists, and lawmakers on ways and means to refute the myths of racial superiority or inferiority may in the long run be the most important achievement in its twenty-five years. Other accomplishments in the general area of human science and culture include a universal copyright convention guaranteeing international protection of all literary, scientific, and artistic works; to date, this agreement has been ratified by sixty-one countries.

Considering the scope of its mandate, the UNESCO budget is modest indeed; although this income has risen from $7-million in 1947, when it had thirty-four members, to $45-million this year, when it has 125, there is pitifully little to work with in any given field of human benefit. As of this spring the United Nations Development Programme had entrusted UNESCO with 157 world projects involving an outlay of more than $650-million, not counting bankers' loans and credits of $365-million in thirty-eight developing countries. The figures are impressive testimony to the growth of this far-reaching U.N. arm now optimistically entering its second quarter century, since it has proved the past.

UNESCO—A GOOD DEED IN A NAUGHTY WORLD

(By Anthony Merill)

Nineteen Seventy-one marks the 25th anniversary of UNESCO, an organization aptly described by a commentator 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.

It is a many-faceted organization. To some it is a great publishing house, turning out books, studies, reports, periodicals in many languages. To others it is a vast filing cabinet in which there is systematically catalogued and available to researchers information on education, science and sociology centralized nowhere else in the world. To developing countries UNESCO is a source of expertise in education and science and planning for efficient development in these two fields so essential to national survival in the space age. To others, UNESCO is an instrument for saving historical treasures like the flood-damaged paintings of Florence, and for the protection of integrity in the creative arts, through international copyright laws.

Clearly, UNESCO's range of operations and interests is broad and sweeping.

LITERACY PROGRAMS

UNESCO tackles the problem of international understanding in a variety of ways. For example, at least 850 million adults in the world cannot read or write—a shocking figure which is growing by 20 million a year. UNESCO is pioneering a "functional literacy" training program, experimental in nature, seeking the best ways to teach these skills in their everyday work.

UNESCO's pilot literacy programs are underway in 12 countries, with 40 more countries asking to participate in the program. With 150,000 persons enrolled in UNESCO-

sponsored literacy classes, UNESCO has sent literacy experts to many other countries to advise their governments.

And while this practical grass-roots program goes on, UNESCO is constantly translating into the major languages of the Western world great writings from the cultural heritage of nations like Japan, the Scandinavian countries and India—literary masterpieces hitherto unknown to Western nations like our own.

TRAINING TEACHERS, BUILDING SCHOOLS

Vital as the UNESCO literacy programs are to UNESCO goals, they are but facets in the multitude of UNESCO operations. The Education "E" in UNESCO embraces not only teaching the illiterate 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 prepared instruction manual. Instead, it located from around the world the top experts in the field, paid their way to a meeting place in Latin America, provided for their expenses while they were there, and made them and their accumulated expertise in school needs for low income developing nations available on the scene for Latin American ministries of education.

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 tremendously important scientific research projects, a notable one—among many—being 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 25 nations and 40 ships including six from the United States. In an area about which man previously knew almost nothing, they found answers to such questions as why monsoons sweep one-half the year in one direction and turn around and blow the other way, and why food-fish in the Indian Ocean sometimes die by the millions. 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 Egyptian monuments threatened by the rising waters of the Aswan Dam project. Mounted by UNESCO, the Nubian Monuments Campaign raised $17 million, involved the participation of 27 countries and rescued 22 temples, the most important being Abu Simbel, built by Rameses II in the 13th Century before Christ. The moving of this mighty temple from the banks of the Nile to a point 100 feet above its original site is one of the most brilliant engineering feats of this Century.

Today UNESCO is the focal point in efforts to save that jewel among cities, Venice, which is slowly sinking into the sea. The Italian Government is being assisted by UNESCO in drawing up a plan to rescue this historic port from sea erosion.

UNESCO art exhibits have travelled the United States for the past 20 years. Through the cooperation of the Smithsonian Institution, they have been seen in hundreds of colleges and universities. Currently there are three UNESCO exhibits in the United States.

UNESCO has also helped bring American cultural achievements to world attention by publishing art books for worldwide distribution. Two recent publications are a book on Calder, and a volume on "Modern American Painting, 1970."

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 intergovernmental bodies 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, so it is in the forefront of world activities in the field. Alaska, for example, has communications needs ideally suited for satellite application, and last year welcomed a UNESCO-sponsored survey team which was working in Alaska in conjunction with the U.S. National Education Association.

The U.S. National Commission for UNESCO (Washington, D.C. 20520) can fill limited requests for basic information leaflets on UNESCO, what it is, what it does and how it works. Lists of UNESCO publications and UNESCO sales items—including the UNESCO art slides series, are available in the United States only through UNIPUB, (The UNESCO publications center) Post Office Box 433, New York City 10016. UNESCO films are handled by Contemporary Films, the Textbook Division of McGraw-Hill Book Company. Contemporary Films has three U.S. Addresses: 330 West 42nd Street, NYC 10026; 828 Custer Ave., Evanston, Ill. 60602; and 1714 Stockton Street, San Francisco 94109.

SENATE 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 arguing that the weapons the Pentagon has built are both 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 the Senate 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 the F–14.

Witneses 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" must be carried out rather than merely mouthed without implementation.

These are the same issues which the critics of defense procurement have been raising for years. There are those, especially those with narrow economic or special interests in perpetuating the present system, who have charged us with "neoisolationism" or with being against defense when our entire thrust is to make this country strong and free by improving our procurement practices and the actual funtioning of our weapons. Now the Senate Armed Services Committee itself is holding hearings on these important issues to our national security and to our national survival. No one can claim that they are "neoisolationist" or oppose a strong and free America. This is a most welcome set of hearings and may be of more significance to the ultimate reform of our present disastrous system of weapons procurement than any other event in recent years.

Mr. President, I ask unanimous consent that an article about these hearings written by William McGaffin of the Chicago Daily News, who has reported and written on this subject for years, and whose knowledge of the problems of defense procurement is not exceeded by any national reporter, be printed in the RECORD.

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

SENATE COMMITTEE SEEKS BETTER AND CHEAPER ARMS

(By William McGaffin)

WASHINGTON.—A minor miracle may have gotten under way on Capitol Hill this week.

A reform movement may have been born in the Senate Armed Services Committee that will produce not only cheaper weapons but weapons that work.

The committee, previously a defender of the Pentagon, has grown so alarmed about the fantastic cost of new weapons that often turn out to be lemons that it has started its own investigation of how weapons are produced.

The independent witnesses the committee called in a hearing that wound up yesterday, at least for the time being, told them how other countries—France, Sweden, Britain and Russia—are running rings around us.

They also provide some recommendations, unpalatable to the Pentagon, on what needs to be changed in the US weapons productions system if the problem is to be solved.

The testimony impressed such influential figures as * * * Miss.), the committee chairman and Sen. Barry Goldwater (R-Ariz.), a committee member who is a flier himself and former Air Force officer.

If the committee eventually decides to act on the tips it has been provided, it has authority to compel the Pentagon to change its ways.

The principal need, according to a series of witnesses, is to go to a simpler design of weapons, to follow a firm policy of "fly before you buy" and to keep the teams of weapons-producing experts small.

In addition, as the witnesses stressed, it is important that pre-production testing of weapons be done by an independent agency. The Russians do this. The Pentagon has been urged to do it by a blue ribbon panel 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." It is written by 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. I ask unanimous consent 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

(By 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 assassins.

For the FSOs, however, the experience generally has not had the radicalizing effect that it has had on many of the military men. The FSOs tended to be older and less malleable than the American soldiers in Vietnam, and their personal thought processes were more subtle and less striking than those of the GIs. Some FSOs were essentially untouched by the whole experience, reacting no differently than if they had been in Paris or Rome. But for most, and especially the young, Vietnam meant change. It meant a violent breaking away from the traditional diplomatic life 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 same pressures that have been widely reported in relation to the military.

Many served in photo-combat roles with command responsibility. While not participants, they received reports of war crimes and what often seemed like the unnecessary loss of human life. Some were faced with the moral dilemma of how far they should go in exposing incidents which they knew to be wrong.

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 President's Vietnam 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 also is undoubtedly aware of the negative result disclosure would have on his career prospects.

His example is extreme, but it points up the fundamental proposition that serving in Vietnam is not like serving elsewhere.

With respect to no other country could it be said that perhaps 20 percent of the FSOs had experimented with soft drugs, but that is the case in Vietnam. And in no other country do FSOs have their own personal automatic weapons and receive training in how to fire a grenade launcher before they go.

Vietnam is different.

Vietnam has undoubtedly sharpened the generation gap between young and old FSOs. In some of the junior grades, a disproportionately large number have been to Vietnam. Almost all return with a healthy skepticism often bordering on contempt, for the Foreign Service. One recent returnee says, "Vietnam is where you learn that your elders aren't what you thought they were."

Another describes Vietnam as his "final disillusionment with the Foreign Service as an institution." He says he "can no longer take the Service at its word," and he goes on to mention the lack of integrity in the reporting process he saw in Vietnam. Yet this same officer feels that his own and his colleagues' disillusionment with the Foreign Service bodes well for the future of the American diplomatic establishment. He believes Vietnam has created a new, skeptical type of diplomat able to work more effectively within the foreign affairs bureaucracy than the old striped-pants set. Shed of the mythology of protocol and cocktail parties, these new skeptics see themselves as "operators" who know how to inflight.

In the process, these officers have developed a strong dislike for the traditional diplomats who direct the Embassy in Saigon and, especially, that Embassy's political section. Almost all FSOs who served in the pacification programs and most junior members of the Embassy staff itself give examples of how their reporting was distorted and suppressed in Saigon, in order that the Embassy might be consistent with the prevailing "line" in dispatches to Washington.

More experienced and worldly FSOs may well view this disillusionment with a cynical resignation, having been exposed to similar pressures during long careers. Perhaps the difference is that most young FSOs entered the Foreign Service with a healthy dose of idealism and just were not prepared for such a violent shock. Largely separated from the amenities and prerogatives of a diplomat's life, they were thrust into an environment in Vietnam completely different from anything they expected on joining the Foreign Service.

FSOs in Vietnam are not isolated from the processes of the US Government, as are most FSOs from Paris to Ouagadougou. The statistics they knew to be nearly worthless were constantly being quoted by the President of the United States as an indication that progress was being made in Vietnam. One heard FSOs laughingly ask at report time, "No one really believes these figures, do they?" Of course, they learned that there were those who claimed to believe those figures, and the degree of belief seemed to increase at each higher bureaucratic level.

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 assessments. 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 American troops in official 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 where they were dependent for promotion on individuals whose fundamental view of the problem in Vietnam often was quite different from their own.

Since the spring of 1967, the Pacification program (CORDS) has been part of the military command structure, although the top leadership is supplied by civilians. The military in CORDS outnumber the civilians by about eight to one. Organizationally, the program is run like the military staff section which it officially is. There are SOPs (Standard Operating Procedures), TO&Es (Tables of Organization and Equipment), and directives to explain everything.

The FSOs in CORDS who expected to maintain a civilian identity found this at times to be nearly impossible. Invariably, either their direct superior or his superior was in uniform, and they were of course dependent for promotion on fitness reports written or reviewed by a military man. Then too, a junior FSO often found himself denied a particular job because his protocol rank was that of first or second lieutenant, and accordingly, he was not allowed to serve above a captain who 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 adviser often participated in combat operations, if for no other reason than to establish rapport with his Vietnamese counterpart who was usually as army officer. On occasion, these FSOs found themselves calling in airstrikes or firing on enemy positions.

A meeting with the State Department's Director of Personnel established that the fact an FSO has a conscientious objection to killing is not considered in deciding whether he shall be assigned to CORDS. Some FSOs who are conscientious objectors are presently assigned to CORDS field positions.

At least one FSO refused to stand guard duty in Vietnam. On returning to Washington, he complained that his aversion to using arms put an unfair burden on co-workers who were forced to fill the gap. He feels that conscientious objectors should not be sent to Vietnam in any capacity.

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 careers; some are afraid of the physical danger; and others do not want to become part of a military organization. Volunteers make up less than one-fifth of those assigned to CORDS.

Yet the State Department long maintained it had a continuing commitment to provide 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, 91 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.

(In at least one instance, however, opposition to the war was thought sufficient reason to change an assignment. In mid-1970, a Vietnam returnee expressed strong opinions against the war when reporting for his new position on the staff of the Vietnam Training Center in Washington. He was swiftly given other duties.)

The personnel officer responsible for Vietnam recently described the Vietnam assignment process thusly: "Service discipline applies." FSOs are supposed to be available for

*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 basic condition of employment, although no black FSO has ever been sent to South Africa, and Jewish officers are not assigned to most Arab countries.

Many FSOs feel that assignments to Vietnam are made on a rather arbitrary basis and that those officers with good connections usually can avoid being sent. 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 Vietnam assignment is unclear. The Director-General has said that it was "not my intention to make people go to the point of resignation." Yet in March 1971 an FSO was informed in writing by his personnel officer that "reasons for breaking an assignment *might* (his emphasis) be found under the following conditions, either singly or in combination: severe compassionate reasons involving an officer, or in certain cases members of his family, or a need elsewhere for an officer's particular skills. Where none of these conditions exist (sic), I can see no alternative than an officer's resignation if he refuses to accept the assignment."

The particular FSO who received this statement had earlier decided he did not want to maneuver within the bureaucracy to find an escape from Vietnam. He confronted the personnel system with the possibility of either his resigning or his assignment being changed.

It is generally felt, however, that if an FSO knows how to pull bureaucratic levers and has a creditable record, he has a good chance of staying out of Vietnam. Of course, he is more likely to be successful if he is in Washington fighting the assignment, rather than in an overseas post.

Most FSOs would agree that certain "starred" officers tend to get the good jobs within the Foreign Service. To the rest fall the leftovers. Vietnam is unquestionably among the leftovers.

FSOs going to Vietnam are generally told that their sacrifice will not be forgotten by a grateful Foreign Service and that they will be rewarded with promotions and choice of ongoing assignments. For several years, promotion panels have been instructed to give particular credit to those who have served in Vietnam. A special unit has been established within the personnel system to look after the Vietnam veterans. The FSO in charge of this unit (himself a Vietnam veteran) reports that the returnees are given "special consideration" in terms of training and next post. He says that most receive their choice.

Yet, when asked by an employee group to substantiate this "special consideration," State Department personnel officers stated they were unable to verify if FSOs with Vietnam service had done better or worse than their peers.

The FSOs serving in CORDS are administratively considered to be on "reimbursable detail" to the Agency for International Development (AID). Their salaries and all other expenses are paid by AID. In fact, the original influx of FSOs into CORDS and its predecessor agencies came about because AID was unable to recruit sufficient numbers of qualified people for service in Vietnam. During the middle '60s, AID conducted extensive recruiting campaigns throughout the United States in a search for sufficient volunteers. These campaigns invariably fell short of their goals, and after 1966 increasing numbers of FSOs were assigned to AID to fill the gap.

This need for pacification personnel was coupled with a feeling by some high State Department officials that the Foreign Service should be doing more to help the American effort in Vietnam and that FSOs were the most effective civilians who could be found for pacification work. Perhaps more important were the 1967–1969 cutbacks ordered by succeeding Presidents in the Foreign Service overseas. Faced with a 20–25 percent reduction, some State Department personnel officers saw the assignment of large numbers of FSOs to CORDS as a way around reductions in the FSO corps, since those FSOs in CORDS were charged to AID's personnel ceiling and not the State Department's. A spring 1971 meeting between an employee group and State's Director of Personnel established that the number of FSOs assigned to CORDS could not presently be cut back unless reductions were made elsewhere. 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. While this policy discouraged some applicants who desired more traditional diplomatic careers, the waiting list of those seeking entry was sufficiently large to provide enough new officers. Yet in this period of mounting opposition throughout the country to the Vietnam war, dissatisfaction rose among the new recruits.

In Foreign Service terms, dissension hit its peak with the class of new FSOs who joined in the summer of 1969. Prior to their entry, most had received letters from the State Department which strongly implied that for the foreseeable future the only way into the Foreign Service would be for the new officers to spend their first tour with CORDS in Vietnam. Some had accepted this condition and others had refused. Then after a slight break in the recruiting logjam, 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 different standards which had been used in their recruitment. Those who had accepted Vietnam service felt they had been duped into it as the presence of those who had originally refused indicated. To make matters worse, when first assignments were given to the new FSOs, many in the group who had earlier refused entry for Vietnam were assigned to Vietnam anyway. Tempers flared among all, some talked of resignation and several acted. (One young FSO, in extremely undiplomatic fashion, told a high personnel officer that "his 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 was a poor introduction into a diplomatic career and that more experienced officers would be more effective in the Vietnam program. Implicit in the change was a desire to eliminate the dissension that Vietnam 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 their jobs, and the problems to be solved are immense. Almost without exception, they find the country and especially the women fascinating. For those assigned to Saigon and a few other large cities, life is pleasant in a way familiar to former colonialists. One returnee talks of being "mesmerized by pleasant Asian living."

Even FSOs assigned to the pacification program in province capitals usually live comfortably. Years ago the American Embassy decreed that an air-conditioner is the inalienable right of all American civilians in Vietnam.

Each of the 44 province capitals has three American compounds: one for the military advisory team which tends to be functionally austere; one for the CIA which is usually the fanciest and is always guarded by impressive looking Chinese hill tribesmen with submachine guns; and one for the CORDS workers including the FSOs. The CORDS compound typically consists of trailers and prefabricated, motel-like houses imported from Singapore; Vietnamese servants, drivers, and armed guards abound.

Life is usually more difficult for the roughly 25 FSOs assigned to district capitals. There they are often forced to share a small house with five or six American military advisers, although some now have their own trailers.

A few FSOs in Vietnam have resigned for policy reasons, but they are definitely the exceptions. In each known case, they have been very junior officers.

A larger resignation problem comes from what a State Department personnel officer describes as "heightened expectations." The majority of FSOs in Vietnam have interesting jobs with considerable responsibility (although this has been less so in recent years as the bureaucracy has grown). Thus when they are assigned elsewhere, the return to a more traditional foreign service assignment is often a letdown.

The State Department refused to make available for this article resignation rates of those who have served in Vietnam. This information was withheld on the grounds that it would be too difficult to check the records. However, one can probably say that resignation rates are probably a little higher among FSOs who have been to Vietnam than in the Foreign Service as a whole.

Two FSOs who had brilliant careers in Vietnam resigned after they found their next assignments unrewarding. Another returnee, son of a career minister, refused the choicest assignments the Foreign Service had to offer and has spent the last year living in the splendid isolation of an unheated cabin in the Virginia countryside. At least four former FSO Vietnam hands now work actively against the war on Capitol Hill. There are certainly other cases of this sort.

No clear picture has yet emerged of what effect Vietnam service will have on the future of American diplomacy.

An "old boy network" of Vietnam veterans will probably come into existence and be helpful to its members in terms of assignments and promotions. FSOs who have been to Vietnam tend to search out others who have shared the same experience. Already the informal intelligence system which existed among information-starved FSOs in Vietnam has been partially transferred to Washington.

Most FSOs who have served in Vietnam are acutely aware of the mistakes America has made in that country and are determined that the experience shall not be repeated elsewhere. More than anything, they understand the limitations of military power. They undoubtedly will be much less likely than their predecessors to accept military, or even principally "American," solutions to problems in foreign countries.

Coupled with the Vietnam veterans' mistrust of Americans in uniform will be their own activism. In Vietnam they left the traditional diplomatic world of reporting and démarches. The emphasis in Vietnam was on

doing things whether inside or outside the system. If Vietnamese officials would not feed hungry refugees, the FSO usually found a way to get the job done himself.

Of course, this new activism could conceivably have an unfortunate effect if carried too far. Some Vietnam veterans are probably more likely to advocate American involvement in the internal affairs of another country than would other diplomats. Most support the use of American influence or leverage to compel a foreign government to take certain desired actions; for they attribute much of the American failure in Vietnam to the inability to use American aid as a means of bringing about needed reforms.

What the attitudes of the Vietnam returnees portend for the future of the Foreign Service is not yet clear. If the slight trend toward resignation increases, then the Department may well lose many of those who have been most markedly affected by the Vietnam experience.

Morale has unquestionably been hurt by the large number of Vietnam assignments, but morale has been hurt countless times in the past.

FSOs who have been to Vietnam may well be viewed as a cadre for future counter-insurgency assignments elsewhere. But fewer and fewer people believe that anything approaching American involvement in Vietnam should or will be repeated elsewhere.

In any case, the Vietnam war may someday come to an end. But many Foreign Service officers, and perhaps the Service as a whole, will never be the same again.

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 officials who work hand-in-glove with whatever industry they are supposed to regulate, and overwhelmed by the efficient legal staffs available to large corporations, they have tended to become a kind of institutionalized 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 to support his claim that the line should be examined. Throughout the long struggle, the Bakers have received next to no help from the officials paid to protect their 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 the family's limited resources.

Mr. President, the Bakers have, to date, spent over $21,000 of their own money to try to make their case. They are not rich, but they believe that they have a right to some 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. Yet 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 American corporation. I ask 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 Washington Missourian, Southwest 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 rights 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.

There being no 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 are from Oologah, Okla. We have three children. We used to live on our farm at Oologah, but since December of 1970, we have been living in a small apartment 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 pipe 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, 230 feet from our home. We were very concerned about the location of the line, prior to the installation. This pipeline was doglegged around our home because we would not sign an easement for less money than we paid originally for our land. Also, we refused to sign, because they would not give a description of where the line was to be located. We were shocked and outraged 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 more than one failure on the hydrostatic test. We requested a map of the route the line was to take. He said the one and only inspector for the state, Tommy Chastain, had the map in his possession, he would not provide us with a copy. We also asked for a copy of the B31.8 Code, which he would not provide, This B31.8 Code is the backbone of the federal Pipeline Safety Laws. We subsequently ordered one from New York. On Saturday, November 28th, 1970, the pipeline crew came through our farm, they welded, x rayed, wrapped, and buried the pipe in approximately 2 hours. The only thing not completed was the river crossing, cattle crossing, and road crossing, which is completed by a different crew, called the tie-in crew. I was there and saw the work being done. The following evening, a Sunday, we received the telephone number of the Chairman of the Oklahoma Corporation Commission, he is the head of the Oklahoma Pipeline Safety Board. He was not there when we called, but he did return our call that same evening. At that time, we told him that we had taken photos of the pipeline showing inadequate wrapping, and that we wanted an inspector out to check this line. I also told him that there were other violations, which could not be photographed. He asked me to write an informal letter and we would receive an informal hearing. I told him there was still sections of the pipe exposed that would verify our charges, and that there wasn't time to write and mail a letter as the line was about to be buried. The Chairman told me it was no more than fair, to list the charges and give the Co. a chance to prepare a defense. I wasn't interested in corresponding with the Chairman. I wanted an inspector sent to look at the pipeline, and see the shoddy construction. The Chairman said, "Let me tell you, if you're trying to create a big fuss, you're barking up the wrong tree." Then he said, "Let me ask you a question. If they move the line 1000 feet away from your home, would you be satisfied?" This surprised me, as Chairman Nesbitt had told me earlier that he had no power in the routing of this line. I told him, I thought you had no power to move this line. He said, "Just answer my question," I said what good would it do? Then he said, "If they moved it half a mile, would you be satisfied?" I then asked him if he was talking for the Pipeline Co. He hesitated and said "no." That ended the conversation. I took off work and was available to meet with an inspector. I felt sure the Chairman understood my position and would send an inspector out. To be assured, I placed a long distance call to our State Senator, Clem McSpadden, and asked him if he would call the State Pipeline Safety Office and request an inspector to come to our farm, and check out this complaint. He promised he would get an inspector to come. If for some reason, he could not, he would call back. He did not return the call. We had also talked to the Governor's legal aide and he said he would do, what he could to get an inspector out. The Governor's office called back and told us their hands were tied, and they had no power over the Okla. Corporation Commission. Since we had not heard from Senator McSpadden we assumed an inspector would be there the next day. But none showed up. WE had given up hope of an inspection when the Senator's Office called, and told us they were . . .

Promised by the Oklahoma Commission an inspector would be sent to see us. No inspector ever contacted us. On December 2, 1970, a crew installed the Caney River crossing, behind our farm. On December 3rd, an article appeared in the Tulsa paper that said Chairman Nesbitt would proceed with a "quick hearing" on our complaint. If we would write Chairman Nesbitt a letter, the Chairman stated that he would make it convenient, and inexpensive for us to have a hearing. We wrote and mailed the letter requesting the hearing on the same day we read the article, December 3rd. We received a letter within two days stating that our request for a hearing was too informal. Chairman Nesbitt stated in the letter that we should list the law violations, so Public Service Co. of Oklahoma, who own the pipeline company could have ample opportunity and time to prepare it's defense. We had not yet received a copy of the B31.8 code, (and we knew the Code was adopted by the State of Oklahoma. Therefore, as soon as we got the B31.8 Code, we were going to refile our complaint citing code violations. This was the beginning of the Oklahoma Corporation Commission's

shifting the burden of proof upon me and my family. On Dec. 7, we placed a long distance call to Washington, D.C., to Joseph Caldwell, acting director of the Office of Pipeline Safety, under DOT. He was not available, and he returned the call to Dorothy. She told him of the problems we encountered in getting an inspector. Mr. Caldwell said that he would see that something was done. Dorothy told him of Chairman Nesbitt's letter. Joseph Caldwell told her not to worry about answering the letter, that he would handle it. Mr. Caldwell said that he was sending a special investigator to make a thorough investigation of this problem. He said to be sure and tell the Investigator everything including the first contact we had with the land buyer. Marshall Taylor, the Federal Special Investigator, was to arrive on December 10th. He came the next day, we found out he went to the State Corporation Commission first. He was driven to our farm from Oklahoma City by Maurice Meyers, and Tommy Chastain, who are the two representatives of the Oklahoma Safety Office. And these were the men who wouldn't come when the line was uncovered. The three men went to Williams Bros., who has been charged, with inspecting and testing this line, to examine their records. Finally they came to our farm.

The investigator stayed about 6 hours taking notes. We asked Marshall Taylor what disciplinary action might be taken against Public Service Co. and Oklahoma, and Marshall Taylor said Oklahoma could lose their certificate over this. Later Marshall Taylor called and asked for one of the photos showing faulty wrapping, and he said to make sure it was marked as to date, time, and location. We reminded him that we had already done this before he had seen the photos. We sent the photo. Marshall Taylor said a report would be made available to us in 14 days. Fourteen days later, Dorothy called Joseph Caldwell and asked for the report. Joseph Caldwell told Dorothy we didn't deserve a report, and that the only thing we would receive is a statement that an investigation was made. In this phone conversation, Dorothy noticed an extremely different attitude. We wanted more than ever to see that report, we felt, they were hiding something. At this point, we began contacting as many State and Federal Representatives as we could, to get as much help as we possibly could, to get a copy of this report. There wasn't a politician that could get the report for us. It was finally released in February of 1971, after we contacted Reuben Robertson at the Center for Study of Responsive Law. Reuben Robertson called us and said that Joseph Caldwell said there was no investigative report made, just a summary of conversations made with various parties, and it was the Baker's word against the Oklahoma Corporation Commission and we assumed the Oklahoma Commission was telling the truth. Joseph Caldwell told a reporter for the Tulsa World, and Dorothy that we had turned down a hearing before the Oklahoma Corporation Commission. This was a big lie! Dorothy told him we had not turned down a hearing. Joseph Caldwell said you should have answered Chairman Nesbitt's letter of Dec. 5, 1970. Dorothy reminded Mr. Caldwell that he had told her quite clearly, on December the 8th of 1970, that we didn't have to write a letter, that he would handle it himself with Chairman Nesbitt, and there would be a thorough investigation made. there would be no need for a State investigation or Hearing. Dorothy and I knew at this time, we were getting the grand run-around, and we resented it, particularly when Mr. Caldwell told Dorothy on Jan. 22, 1971 that it was now, too late for us to have a hearing, before the Oklahoma Corporation Commission, since we had not filed our complaint.

We received a copy of Mr. Caldwell's report, and we found it grossly in error. It was not accurate as to the dates, all the facts were missing, and none of the charges are presented. (In the 6 hour interview, Taylor took down all dates, correct facts, and basic charges in the complaint.) As to the photo we sent, Mr. Caldwell acknowledged that the wrapping appeared to be faulty but said "there was no way to tell where that section of pipe was." The marking on the photo reads "No. 3 11-30-70 2:30 p.m. facing northwest toward river, approximately 1,000 feet east of Caney River. Pipe was put in crossing." We can prove that Mr. Caldwell was lying when he said our photo was unmarked. Mr. Caldwell has given us the super run-around. Dorothy and I felt we wasted, two months trying to obtain the results of an investigation that never took place. At this point, we felt that the Federal Safety Board was working for the interests of the pipeline companies, 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 tactic being used was to discourage and confuse us. But we were more determined. Marshall Taylor did not physically or visually inspect this pipeline, as they had already buried their mistakes. When we were informed there was no investigation, we demanded a hearing before the Oklahoma Corporation Commission, with the assistance of our attorney, Jerry Kamins. There were three weeks of testimony spread out over a period of 4 months. It started in April of 1971 and ended in July. We had no hearing sessions in June as Chairman Nesbitt and the other two Commissioners closed the Safety Hearings to take a month's vacation, even though a trial examiner conducted the Hearings. We were offered the services of a Commission attorney. We declined as we were told by this same attorney, that he would not only represent us during 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 Center, Mr. Caldwell states that "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 is for the companies 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 found many errors in the transcripts. The court reporters also used a tape recorder. They have checked back, and changed all the errors we found. But, now, we have been advised by letter to our attorney 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 expense and burden to us, and it certainly is uncalled for when the court reporters, have their tapes to verify any changes requested. The $21,000 does not represent any part of the additional expenses 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 use of our home since December of 1970. Dorothy and I sold our cattle at a loss. We had to mortgage our farm, and have sold other assets at a loss to get funds to continue fighting this injustice. We have made five requests during the hearing to shut the line down or substantially reduce the amount of pressure until a final decision is received. Our four requests were turned down, and the last one which was made in July has not been answered yet. We asked the Oklahoma Commission to uncover the line, so we could prove our charges, but Public Service Co. of Okla. wanted us to post a $250,000 bond, plus pay all of the expenses for uncovering the line. This we could not afford. At the hearing, we presented witnesses and evidence to faulty wrapping, failure to properly cushion rock in ditches, so as not to damage the coating or the pipe, failure to bury the pipe at required depths, misplacement of longitudinal seams when field bends were made, and the most damaging of all . . . the x rays. We hired an expert to examine the x rays and he found approximately 2000 welds that are not within the minimum Federal and State Safety Code. The Commission brought from out of State, a completely impartial expert, to examine a sampling of the film our expert rejected as not being within the Code.

The Oklahoma Commission's independent expert found more extensive defects in his examination, whereas, our expert tended to be more conservative. When Mr. Caldwell was informed by us, of the tremendous amount of weld defect, he told Dorothy the Code only required the Co. to x ray 15%, and if it had 15% good welds, they were still within the code. This is ridiculous and outrageous. No place in this Code does it state that a Co. can have 85% of its welds defective, as long as they can produce 15% acceptable welds. When Mr. Chastain, the State Inspector for the Safety Board testified, he said he was contacted by Senator McSpadden, and he told them that he would check out our complaint. But he was told by his superior, Maurice Meyers, not to go any further than the west bank of the Caney River. We live on the east side of the Caney River, also, the section of pipe that was to go into the river crossing was on the East side. We have just this week written the Commission demanding that the Commission conduct a hearing to investigate fraudulent statements Public Service Co.'s witnesses have made. In the meantime, we are deprived of our home, while the Co. is 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 at anytime. I ask you, would you ask 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 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. The Co. and Joseph Caldwell's defense is, that the hydrostatic test is a cure all, even for defective welding. If this is so, why were there 1,019 explosions on Natural Gas lines alone, that caused death, injury, or property damage in 1970? I have worked hard for many years to provide my family with the security of a home. In a matter of months, I have lost most of my assets, and will be in debt for many years to come, through no fault of my own. But this has come about because of the lack of responsibility the Industry and the Federal and State Safety Boards have shown. Perhaps you can not help me and my family at this time, but I ask you please do everything you can, so this will never happen to another American citizen.

[From the editorial page, Washington Missourian, May 6, 1971]

"DAVID" WITHOUT A SLING SHOT

One man and his firey wife in Oklahoma have taken on the pipeline industry, and have made themselves felt in places where it counts. But will they be able to make themselves felt enough to bring about a needed change? That's the question.

It's like "David fighting Goliath without a slingshot," says the man's wife.

The couple, Mr. and Mrs. Charles Baker of Collinsville, Okla., have good reason to fight. They have gained a great deal of support around the country, especially from people living near pipelines, but it takes more than goodwill and support to fight a giant industry with unlimited funds and a battery of lawyers, who have a way of recruiting and influencing witnesses to testify in their behalf!

The Bakers have a 131-acre farm near Collinsville. He is a welder. A 20-inch high pressure line runs through their vegetable garden, and is only 234 feet from their farm home.

Mr. Baker has charged that the pipeline companies are burying "time bombs" all over the country, and says somebody "has got to shake up this industry."

He also charges that the line through his place is full of defects. The walls are too thin, the welds are shoddy, and the wrappings are unsafe. Mr. Baker says he has pictures to prove it. He says the line could explode at any time. He considers it so dangerous that he moved his family away from the farm home!

The U.S. Office of Pipeline Safety sent a special investigator to Collinsville to check into the charges. He reported he found "no violations," and called "the case closed."

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 beginning to wonder and ask 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. Already hearings have been held, and others are proposed. The matter may be aired in a senate hearing before much longer.

The people in the Beaufort neighborhood will be particularly interested 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 December in the Port Hudson area equaled the force of an entire bagful of ordinary bombs!

Reuben Robertson of the Nader group was quoted in the Wall Street Journal as saying the Bakers have raised some deep and fundamental 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 citizens."

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, when there are agencies" to do this, paid for by the taxpayers!

The people in the Beaufort and Port Hudson areas also would 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 potential "time bomb?"

Both Sen. Stuart Symington and Congressman Bill Hungate have taken a deep interest in this matter. They want to know where the government 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 ENGINEER TESTIFIES

OKLAHOMA CITY.—A Wisconsin metallurgical 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 engineering professor, gave the opinion at a hearing before an Oklahoma Corporation Commission referee.

The 20-inch pipeline was laid by Transok Pipeline Co. for the Public Service Co. of Oklahoma. It extends from Enid, Okla., to a power plant at Oologah, Okla. a distance of 144 miles.

Mr. and Mrs. Charles Baker of Collinsville, Okla., have asked the Oklahoma Corporation Commission to force removal of the pipeline from their property or see that it meets federal safety standards.

Worzala said he based his assessment of the line on X-ray photographs of welded 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 Thursday and will resume for one day Monday. The couple's attorney, Gerald Kamins, said he expects to complete his case by noon Monday.

Transok attorney Robert L. Lawrence, said presentation of his rebuttal will take ten days to two weeks.

Because of other hearings scheduled during the next two weeks, Corporation Commission Referee Darwin Frayer said additional time for the Baker vs. Transok case will be set for late May.

Baker, a welder, said in his complaint that the pipeline was designed to carry 1,300 pounds of pressure per square inch and would carry 1,000 pounds.

Lawrence said the pipepline actually will carry only 800 pounds of pressure and is designed to withstand 52,000 pounds.

Snyder questioning, Baker said the information 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 Baker-Transok case recently has come under investigation by the offices of Sen. Lee Metcalf of Montana, who heads a U.S. Senate subcommittee looking into federal regulatory agencies, and Sen. Vance Hartke of Indiana, who is chairman of the Senate committee which has held several hearings on pipeline safety.

COMMISSION DUE TO GIVE PIPELINE PROBE RULING TODAY

(By Jim Henderson)

OKLAHOMA CITY.—The state Corporation Commission will rule Tuesday on whether to order operations of a Public Service Co. pipeline from Ames 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.

Earlier, attorneys for Public Service Co. had agreed to having parts of the line uncovered if Mr. and Mrs. Charles Baker would pay for the labor and post a $250,000 bond.

During a hearing on five motions by their attorney—Gerald Kamins of Tulsa, Corporation Commission Chairman Charles Nesbitt asked if the Bakers would pay the costs involved if the motions were granted.

"Absolutely not," Kamins said. "They have spent all their assets just getting to this point in the hearings."

Earlier this month, 3 days of hearings were held with the Bakers presenting their case. Attorney fees, payment for expert witnesses, travel, telephone calls and other expenses they said, have cost them nearly $8,000.

"We feel that we have made a prima facie case," Kamins said, "and shifted the burden of proof to Transok (the PSC subsidiary company which built the line)."

Kamins said uncovering the line would "show without any question" that the Bakers' allegations of defective construction are true. During the earlier portion of the hearings, several expert witnesses called by the Bakers testified that the line does not meet federal safety requirements. However, the president of Transok testified that the pipeline was safe.

Transok and Public Service Co. will present its case when the hearings resume next Monday.

In the meantime, Kamins had filed five motions with the commission. Besides shutting down the line and uncovering parts of it, he asked that all weld x-rays be impounded and turned over to an "independent" expert appointed by the commission; that he be allowed to subpoena PSC's chief counsel, Robert Lawrence, as a witness; and that an order by hearing referee Darwin Frayer turning certain evidence over to PSC's attorneys be rescinded.

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.

"We have 21 witnesses to testify," he said. "It seems to me that this is premature for the reason that you just have half the show."

However, the commission is expected to permit Kamins to subpoena Lawrence and the records that are in his possession.

"You 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,'" Nesbitt said.

Nesbitt 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. "I find it hard to be impressed with the danger of the pipe bursting."

Lawrence, said there would be danger from shovels striking the pipe and added "When you get them in the ground you ought to leave them there."

Kamins said he had contacted several contractors 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 construction.

At one point in the arguments, Lawrence began to read from the federal pipeline safety code to substantiate his argument that the line was built according to those regulations.

Nesbitt interrupted him: "As I understand it, the applicants are also challenging the

sufficiency of the code. It is no answer then to merely quote the code. The burden will rest on you not just to show that code was met, but that the line is safe."

"I am prepared to accept that burden," Lawrence said.

PIPE SAFETY TESTIMONY CHALLENGED; HEARING SET

Charges that two consulting engineers gave incorrect testimony in a state Corporation Commission hearing on safety of a Transok Pipeline Co. Enid-to-Oologah natural gas line will be heard by the commission Dec. 10.

The charges are the latest action in a year-long protest by Mr. and Mrs. Charles Baker, Collinsville couple who claim construction of the pipeline drove them from their Oologah farm.

Outcries from the Bakers contesting safety of the 144-mile, 20-inch line prompted the three-month Corporation Commission hearing that ended July 24. The matter also was taken before a congressional subcommittee on surface transportation earlier this month.

The new hearing request, filed by the Bakers' attorney, Gerald E. Kamins, challenges testimony of July 20 by engineers W. E. Huddleston and James R. Cowles before the state commission.

The request claims statements by those men that pipeline near the Baker ranch was under complete cathodic protection from corrosion were incorrect. The request added:

"Testimony will be presented by the applicants that no cathodic protection was placed on their ranch or adjoining ranches until October, 1971, and not in May, June or July as stated by W. E. Huddleston and inferred and not corrected by the person who had the contract for cathodic protection and was caught adjacent the Baker property in October trying (to) sneak the installation of cathodic protection after the fact."

Huddleston, Bartlesville consulting engineer, testified he examined the pipeline running across Baker property and found it free of corrosion. In testimony July 20, cited in the new hearing request, Huddleston stated:

"That section of the pipeline is now under 100 per cent cathodic protection."

The request calls the testimony perjury and claims Cowles, Tulsa consulting engineer and former head of corrosion work for Oklahoma Natural Gas Co., failed to correct Huddleston's statements in his own testimony later.

Commission Chairman Charles Nesbitt granted the hearing, scheduling it at 1:30 p.m. Dec. 10 in the commission courtroom, Oklahoma City.

Testimony given by two engineers on the safety of a natural gas line will be challenged at a state Corporation Commission hearing Dec. 10.

W. E. Huddleston and James R. Cowles, consulting engineers, testified July 20 before the commission about a Transok Pipeline Co. Enid-to-Oologah line.

Gerald E. Kamins, attorney for Mr. and Mrs. Charles Baker, Collinsville, who claim construction of the pipeline drove them from their Oologah farm, contends the engineers' testimony was false.

Kamins' challenge to the engineers' testimony contends that their statements concerning the pipeline near the Baker ranch were incorrect concerning its complete cathodic protection from corrosion.

Huddleston, Bartlesville consulting engineer, testified he examined the pipeline running across the Baker property and found it free of corrosion.

Cowles, Tulsa consulting engineer and former head of corrosion work for Oklahoma Natural Gas Co., failed to correct Huddleston's statements in his testimony later, it is claimed.

These charges are the latest action in the year-long protest against the company. The Corporation Commission hearing into the matter ended July 24.

Commission Chairman Charles Nesbitt granted the hearing, which is scheduled at 1:30 p.m. Dec. 10 in the commission's courtroom at Oklahoma City.

TRIBUTE TO RALPH BUNCHE

Mr. HUMPHREY. Mr. President, I was grieved to hear the news 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 difficulty our country will have in finding his match for some time to come. He was, after all, a monumental human being.

As U.N. Under Secretary General for Special Political Affairs, Dr. Ralph Bunche made substantial and significant contributions to the cause of world peace. He is, of course, well known and admired for his role as mediator of the 1949 armistice agreements between Israel and the Arab States, which led to his receipt of the Nobel Peace Prize in 1950. Dr. Bunche also was intimately involved with United Nations peacekeeping operations in the Congo in the early 1960's which resulted in the emergence of a unified Congo.

After the June 1967 war in the Middle East, he toiled endlessly and with little regard to his personal well-being to help Secretary General Thant and Special Representative Gunnar Jarring reach a settlement agreeable to all parties in the dispute. Truly Ralph Bunche is a soldier of peace—brave, determined and effective.

Respect and admiration for this great man, this international peacemaker and crusader for justice and equality, is universal. The best way to honor his death is for all of us to redouble our efforts to secure a lasting peace and true brotherhood among men.

I ask unanimous consent that an article published in the New York Times of December 9 be printed in the RECORD.

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

DR. BUNCHE OF U.N., NOBEL WINNER, DIES

(By Robert D. McFadden)

Dr. Ralph J. Bunche, former United Nations Under Secretary General for Special Political Affairs and winner of the 1950 Nobel Peace Prize, died early yesterday in New York Hospital. He was 67 years old.

Dr. Bunche, who suffered from a kidney malfunction, diabetes, heart disease and near blindness, was frequently hospitalized in recent months. He entered the hospital for the final time last Tuesday and died at 12:40 A.M. yesterday.

Dr. Bunche, who had been with the United Nations since its founding, lived in a world of diplomacy that was racked with belligerence yet capable of great harmony. Its ultimate poles were war and peace, and between these he sought the balance of justice.

Like his world, Dr. Bunche was a man of many faces and talents, full of paradox and struggle. By training and temperament, he was an ideal international civil servant, a black man of learning and experience open to men and ideas of all shades.

At the United Nations, he had been a key diplomat for more than two decades since his triumphal success in negotiating the difficult 1949 armistice betwen the new state of Israel and the Arab states.

As the architect of the Palestine accord, he won the Nobel Peace Prize of 1950. And many of his associates at the Secretariat and in government around the world could cite his accomplishments and accolades, mentioning their contacts with him proudly.

But in spite of his stature and reputation, Dr. Bunche was essentially a private man, eschewing personal publicity and disclaiming political ambition.

Few people, save those closest to him, knew the details of his middle-class adolescence in Detroit, his youth as an orphan in the care of a grandmother, his adventures as a young stowaway and seaman, his toil in menial jobs in working his way through college and his real ambition as a young man—to be a teacher.

Nor could many recount his confrontations with racism, including his close escape from a lynch mob in Alabama, where he and Gunnar Myrdal, the Swedish sociologist, were gathering material in 1938 for "An American Dilemma," the book that forecast many developments in race relations in this country.

It was indeed difficult to say how the color barriers he encountered at hotels and restaurants—even as a high official in the nation's capital—laced themselves into the fabric of his personality and skills as a mediator.

At a negotiating conference table, he usually gave the outward appearance of being calm, soft-spoken, unflappable. But there were signs, for those who would note them, of the deeper turmoil in the man: the chain-smoked cigarettes, the darkening circles under his grave eyes, the hoarseness in his baritone voice.

ENERGY AND TIMING

He could haggle, bicker, hairsplit and browbeat, 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 efforts in the Suez area in 1956, the Congo in 1960 and Cyprus in 1964.

At his 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 organization and, incidentally, the most prominent black man of his era whose stature did not derive chiefly from racial militance or endeavors specifically in behalf of his race.

He was deeply sensitive to racial problems, and often spoke bluntly about them. But his perspective was above the day-to-day trials of discrimination; indeed, he recognized that emphasizing his light-skinned blackness could have damaged his roles as a mediator and neutral peace-keeper—roles in which he found more often than not an advantage in his blackness.

THRUST INTO ROLE

The apex of his diplomatic career—and, perhaps, the best example of his negotiating psychology—came during the Palestinian talks on the island of Rhodes in 1948 and 1949. He had been thrust into the role of chief mediator after the assassination of the original appointee, 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 combustible economic and political frictions.

A truce demanded by the Security Council had broken down. Large-scale fighting was under way. Thousands of lives in the Middle East lay in the balance, and so did the very life of the fledgling United Nations, whose peace-keeping capacities were on the line.

The Israeli and Arab delegations from the start were cautious, aloof and occasionally hostile. Dr. Bunche met with both sides separately to determine what kind of agenda to draw up, then called the delegations together to approve the agenda. These preliminary moves seemed simple and straightforward, but there was more to them than met the eye.

"There was a double purpose," Dr. Bunche later explained. "Primarily, it was to get both sides to meet—but also, I wanted them both to get accustomed to taking formal action, and to signing something." It didn't matter what—just anything that looked official, he explained.

"Whenever they got together," Dr. Bunche recalled, "you'd always find that there was a gap between them. It was always a matter of timing, always a matter of finding out when it would be appropriate to reduce a discussion to a formal, written draft of one point. We never would throw a whole draft at them at the beginning—that would have scared them to death."

At one exasperating point in the 81-day negotiating marathon, an impatient Israeli delegate hurled a pencil on the table, and it bounced up and hit an Arab delegate. The talks almost blew up. But Dr. Bunche privately reprimanded the Israeli and got him to apologize.

It was always touch-and-go. On another occasion, an Arab delegate refused to shake hands with an Israeli leader. This nearly wrecked the negotiations too. But Dr. Bunche, after much talk that smacked of foreign intrigue, arrange what amounted to a secret rendezvous between the two men who, it turned out, were grateful for the opportunity.

"This time they acted like long-lost brothers," Dr. Bunche recalled. "Pretty soon they started to speak Arabic—and then they apologized to me because they knew I didn't speak the language. I said, 'Hell, speak your Arabic—don't bother about me.' "

Eventually, the force of Dr. Bunche's personality melted the frigid atmosphere of the talks. There were thousands of pages of documents, drafts and counterdrafts, hundreds of compromises and ultimatums. But ultimately, an armistice was signed.

"He drove himself and his staff night and day," an aide said afterward. "He plunged into every problem as though his life depended on getting it solved. He had an uncanny ability for grasping a situation and sizing it up completely."

When it was all over, Col. Mohammed Ibrahim Seif elDine, of Egypt, called Dr. Bunche "one of the greatest men in the world." Dr. Walter Eytan, of Israel, said the mediator's effort had been "superhuman."

PEACEKEEPING SATISFYING

Dr. Bunche gave full credit to the two delegations and to his staff. The Nobel Prize Committee thought otherwise in making its first peace award to a black man.

In a 1969 interview, Dr. Bunche said: "The Peace Prize attracted all the attention, but I've had more satisfaction in the work I've done since. I have been in charge of the U.N. peace-keeping operations in various parts of the world—the Congo, the Middle East, Kashmir." The Suez operation he called "the single most satisfying work I've ever done," primarily because "for the first time we have found a way to use military men for peace instead of war."

BIAS AGAINST BIGOTRY

Dr. Bunche made friends easily and was a good conversationalist of an evening, mixing stories with a few whiskies. But his most serious words were not reserved for friends. In a speech at the Waldorf-Astoria, he once said a great deal about himself and his convictions:

"I have a number of very strong biases. I have a deep-seated bias against hate and intolerance. I have a bias against racial and religious bigotry.

"I have a bias against war, a bias for peace. I have a bias which leads me to believe in the essential goodness of my fellow man, which leads me to believe that no problem of human relations is ever insoluble. And I have a strong bias in favor of the United Nations and its ability to maintain a peaceful world."

For the author of these convictions, the road to greatness had been steep and rutted with obstacles. Ralph Johnson Bunche was born in Detroit on Aug. 7, 1904, the son of Fred Bunche, a barber, and Olive Agnes Johnson Bunche, a musically inclined woman who contributed much to what her son called a household "bubbling over with ideas and opinions."

In 1915, after the birth of Ralph's sister, Grace, his mother developed rheumatic fever and the family moved to Albuquerque, N.M., for the hot, dry air and sunshine. But Mrs. Bunche died in a short time, and three months later her husband died. At the age of 13, Ralph was an orphan.

He and his sister were left in the care of their maternal grandmother, Mrs. Lucy Taylor Johnson, a tiny woman with a towering will and what Ralph considered the wisdom of a sage. She took the children to Los Angeles, where they lived in a bungalow in a mostly white neighborhood, and enrolled them in local public schools.

At the 30th Street intermediary school, the principal advised that Ralph be enrolled in a commercial training course. But Mrs. Johnson wouldn't have it. "My grandson is going to college," she told the principal.

The youth was a brilliant student. He was valedictorian of the class of '22 at Jefferson High School, whose academic honor society denied him admission at the time and tried to correct the matter, to Dr. Bunche's amusement, 30 years later.

COLLEGE ON SCHOLARSHIPS

After high school, he continued working as a janitor and carpet-layer, jobs he had obtained to help support the family. But at the insistence of his grandmother, he accepted an academic scholarship and enrolled at the University of California at Los Angeles.

As in high school, he was a star in football and basketball at U.C.L.A., but sustained a knee injury that bothered him for the rest of his life. Nevertheless, he always carried three little gold basketballs, reminders of three championship years on the varsity, and a United Nations associate said he thought they were Dr. Bunche's proudest possessions.

His passion for baseball and football also remained with him. Some United Nations officials never guessed that a few of the scribbled messages handed to him by security guards during meetings contained the scores of ball games.

To support himself in college, the young man spent his summers working on ships. The job began in 1923 when he stowed away on a ship to save the cost of railroad fare to a Reserve Officers Training Corps summer camp.

He was caught and put to work to earn his passage, but he liked the job so much that he worked ships for the next three summers.

He received his Bachelor of Arts degree with Phi Beta Kappa honors in 1927, and went on to Harvard to take a Master of Arts in 1928 and his doctorate in government and international relations in 1934. He later did advanced work in anthropology at Northwestern University, the London School of Economics and the University of Capetown.

MARRIED HIS STUDENT

Dr. Bunche joined the faculty of Howard University in Washington in 1928, and there, a year later, he met Ruth Harris of Montgomery, Ala., one of his students, who also was teaching in an elementary school. They were married on June 23, 1930, and moved to Harvard, where he was beginning his doctoral studies.

From 1938 to 1940, Dr. Bunche collaborated with Gunnar Myrdal in his researches on "An American Dilemma." Their questions about interracial sex relations aroused a mob of angry whites who chased them across Alabama one night.

When the United States entered World War II, Dr. Bunche was rejected for miltary service because of his damaged knee and hearing impaired by a mastoid operation. But he joined the War Department as an analyst of African and Far Eastern affairs and quickly rose through the ranks of Strategic Services. In 1944, he moved to the State Department and became head of the Division of Dependent Area Affairs, dealing with colonial problems. By the war's end, he was in the mainstream of planning for the organization that was to become the United Nations.

In 1944, he was at Dumbarton Oaks, laying the groundwork. In 1945, he was at San Francisco, drawing up the trusteeship sections of the United Nations Charter. In 1946, he was in the United Nations delegation to the first General Assembly in London.

AT LIE'S REQUEST

Later that year, he went on loan to the United Nations at the request of Secretary General Trygve Lie, and in 1947 he quit the State Department to join the permanent Secretariat of the new world body.

In the Secretariat, he directed the operations of the trusteeship Division and set * * * but the guiding principles under which numerous territories achieved statehood. His expertise on African affairs and the problems of the emerging African nations was broad and acquired first-hand.

The year after his stunning success in the negotiations at Rhodes, he was offered—but rejected—the post of Assistant Secretary of State. "Frankly," he said at the time, "there's too much Jim Crow in Washington for me—I wouldn't take my kids back there."

By 1955, Dr. Bunche held the title of Under Secretary and two years later Under Secretary for Special Political Affairs. During those years, he was the principal trouble-shooter for Dag Hammarskjold.

Among his tasks were the United Nations program on the peaceful uses of atomic energy and research on the effects of radiation.

When the United Nations managed to halt the British-French-Israeli invasion of the Suez area in November, 1956, Dr. Bunche organized and directed the deployment of a 6,000-man neutral force that acted as a buffer between the belligerents. This force was his special responsibility until 1967, when President Gamal Abdel Nasser of the United Arab Republic demanded its withdrawal.

In 1960, he directed another peace-keeping force in the Congo, preventing the new republic's total collapse after the secession of Katanga province.

When the United Nations force in Cyprus was set up in March, 1964, Secretary General Thant put Dr. Bunche in charge of the 6,000 troops that stood between Cypriotes of Greek and of Turkish origin.

In all these efforts, Dr. Bunche viewed the use of troops as part of the larger work of bringing warring peoples to the conference table and hatreds under control.

For his work, there were awards—scores of

them, a torrent of medals, prizes and more than 50 honorary doctorates. He became a trustee of Oberlin College in 1950, a member of the Harvard board of overseers from 1959 to 1965, president of the American Political Science Association in 1953–54 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 1953 in a Tudor-style home in Kew Gardens, Queens. Until his eyesight began failing, Dr. Bunche drove his own car to work daily.

He loved the theater and the opera, and on occasion the stars he admired visited his 38th-floor office in the Secretariat building.

TENNIS CLUB REBUFF

In 1959, he was involved in a much-publicized incident in which he and his son, Ralph Jr., were refused membership in the West Side Tennis Club at Forest Hills. Dr. Bunche took up the cudgels and received an apology, and the club official responsible for the rebuff resigned. Dr. Bunche then declined an offer of membership.

He was angered because the change appeared to be based on his personal prestige, and not on any principle of racial equality. "No Negro American can be free from the disabilities of race in this country until the lowliest Negro in Mississippi is no longer disadvantaged because of his race," he said.

There were other occasions on which he was moved to protest racial discrimination. He first walked a picket line for the National Association for the Advancement of Colored People in Washington in 1937. In 1965, 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 last year Dr. Bunche 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. Bunche would recover and be able to return to his duties. But this was not to be.

Dr. Bunche is survived by his widow; son, Ralph Jr.; daughter, Joan, and three grandchildren. Another daughter, Mrs. Burton Pierce, died in 1966.

Dr. Bunche's body may be viewed by the public at Frank E. Campbells, Madison Avenue, and 81st Street starting at 7 tonight. The Rev. Ernest T. Campbell will conduct the funeral services at the Riverside Church 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, N.C., 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.

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

[From the Hendersonville (N.C.) Time-News, April 13, 1971]

SENATOR ERVIN IS CHAMPION OF CONSTITUTIONAL RIGHTS

(By William H. Hackett)

"Senator Ervin has certainly become one of the nation's outstanding defenders of constitutional rights in the last five years," commented a veteran Congressional aide who, during his years on Capitol Hill, has witnessed the rise of many federal legislators and the decline of an even greater number.

U.S. Sen. Sam J. Ervin Jr., who was born and raised in Morganton, is an acknowledged constitutional authority in the U.S. Senate and his activities in this arena in the last few years have emphasized his ability and zeal in this field.

Right now his fists are doubled up under the nose of bureaucrats who are pouring carloads of citizens names into computer banks in what 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 for an interview. He is the second ranking Democrat on the Senate Judiciary Committee and chairman of its sub-committees on Constitutional Rights, Revision and Codification of the Laws and Separation of Powers. He is also No. 2 man for the majority on the Senate Government Operations Committee and a member of the Permanent Committee on Investigations. In addition he is a very active member of the Senate Armed Services Committee and is chairman of its subcommittee on Status of Forces Treaty.

He was hurrying down the spacious hallway of the old Senate Office Building, deeply engrossed in a report he had prepared, when we contacted him. Expressing regret in his amiable way that he couldn't spare time for an interview he paused and then reversed himself and led us back to his office which we entered through his private door. Walls of his high ceiling office were lined with book shelves filled with books of law, history and classics. His desk top was cluttered with reports, reference notes, mail to be signed and some incoming mail.

Mail to Senators on the Calley decision was approaching its peak on the day of our interview and patronage mail carriers were traveling in and out of Senate offices at intervals with armloads of mail.

"I have entertained the hope that the military jury would acquit Lt. Calley," Sen. Ervin said. "While the military jury heard all of the testimony in the case and had an opportunity to see the witnesses while testifying and I did not, I had gathered from the news media that Lt. Calley was either under great tension, which disabled him to kill with premeditation or was acting in obedience to orders of a superior which he determined to be valid."

The Senator then outlined the lengthy route ahead for the Calley case. He added, "Either the Secretary of the Army or the President can exercise clemency even if it should be established that the law and the facts justified the findings and sentence of the court martial."

In his fight with the bureaucrats on the right of privacy of private citizens, Sen. Ervin has accomplished what very few of his colleagues have been able to do. In his legislative drive designed to block witch hunts into the activities of federal employes, he has lined up over 50 of the 100 Senators as cosponsors of his bill. In doing that he has performed the miracle of bringing under the same roof colleagues whose philosophies are as different as day and night. Such ultra liberals as Sen. Bayh (D-Ind.) and Sen. Humphrey (D-Minn.) are arm-in-arm with such ultra conservatives as Sen. Goldwater (R-Ariz.) and Sen Tower (R-Tex.)

The purpose of the Ervin bill is to prohibit indiscriminate requirements that government employes and applicants for government jobs disclose their race, religion, personal relationships or sexual attitudes through interviews, psychological tests or polygraphs. It also prohibits requirements that employes attend government-sponsored meetings and lectures or participate in outside activities unrelated to their employment or report on their outside activities or undertakings unrelated to their work.

Observing the enthusiasm with which he appoaches a subject, the vigor he applies to the task before him and the keen wit with which he spices his conversation it is difficult to realize he is almost five years beyond man's allotted three score and ten. He is well preserved and thrives on his multitudinous 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 to be cochairman, issued a report on the B–1 bomber. The report was done 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 opposition to 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 those who oppose the B–1 bomber would welcome an Air Force document which put the arguments in favor of the B–1 with anything like the same quality and force as the McGovern-Seiberling report puts the case against the B–1.

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 "The Very Model of a Modern Major Misconception," in paraphrase of Gilbert and Sullivan's famous song.

The fact is that among intelligent defense experts, the B–1 bomber is a joke. It is a public works project for the aerospace 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. If the same funds were spent for antipollution, 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, as follows:

THE B–1 BOMBER—THE VERY MODEL OF A MODERN MAJOR MISCONCEPTION

(By Berkeley Rice)

With relatively little attention from the press and even less from the public, Congress has approved a fiscal year 1972 Defense De-

partment budget to roughly $75-billion, give or take a few billion. Included in this total is about $21-billion for research, development, and procurement of a variety of military hardware. Buried in all these figures is the comparatively trifling sum of $370-million to start development engineering on the B–1, the Air Force's new manned strategic bomber. Trifling or not, this early funding represents only the tip of an iceberg. The entire B–1 program may end up costing anywhere from $10- to $50-billion, depending on who's doing the estimating.

Being practical men, Congressional opponents of proposed weapon systems generally argue in terms of cost-effectiveness and strategic capability, both grounds on which one can mount an impressive case 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 votes of fiscal but patriotic conservatives) is that building nuclear bombers of any kind is an enterprise of insanity. Insane because it represents an outrageously expensive escalation of the arms race, and insane because it brings us no closer to the illusory goal of military supremacy.

Arguments over the B–1's cost, effectiveness, and strategic value are like arguments over "clean" versus "dirty" bombs—logical, relevant, and interesting, but nevertheless mad. Mad or not, these contitute the grounds on which Congress debated the B–1, and therefore are arguments that the general public should at least consider.

Unlike the opposition to the ABM in 1969, or the SST last spring, citizen groups have not rallied to lobby on Capitol Hill against the B–1. Unlike Lockheed's disastrously expensive C–5A cargo plane, the B–1 has not yet achieved a cost overrun large enough to create a public scandal (although it does show considerable promise of doing so). All the letters received by every Congressman this year—for and against the B–1—would easily fit in a single mail sack. Obviously, the public neither knows nor cares much about the B–1.

On the basis of the Congressional debate on the B–1, few Congressmen do either. Representing a group of senators and representatives known as Members of Congress for Peace Through Law, Senator George McGovern (D-N.D.) and Representative John Seiberling (D-O.) prepared a detailed report opposing the B–1 on several grounds that should at least have resulted in some intelligent debate. Much of what debate did occur, however, ran along the lines of the argument 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 communism, the B–1 program must continue at full speed."

On June 16, the House devoted less than an hour to its debate on the B–1. An amendment by Representative Otis Pike (D-N.Y.) that would have cut off funds for the bomber was crushed 307 to 97. On September 22, with only half a dozen members 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 trouble is, by the time they are, it may be too late to do much about it. They're still afraid of tampering with anything labeled 'national defense.'"

Along with defense strategy, patriotism, and ignorance, there is another reason why the B–1's flight through Congress drew so little flak. The politically powerful aerospace industry has been taking a beating in recent years, with the defeat of the SST, the financial troubles of Lockheed, and the general slump of the airlines. The B–1's prime contractor, North American Rockwell, had dropped from a peak work force of 97,000 men down to 50,000 at the time it received the prototype contract in June 1970. Over the next few years, it expects to hire about 15,000 additional employees many of them aerospace engineers who have been out of work for months. If the B–1 program were terminated, many of these men would find themselves floundering again on the already depressed job market. Since North American, like Lockheed, is based in President Nixon's own Southern California, cancellation of the B–1 program could damage his chances in next year's election.

Despite the B–1's economic and political importance to Southern California, its economic and strategic impact on the rest of the country deserves far more critical examination than it has yet received in Congress or the press. Knowledgeable critics have questioned the wisdom of the B–1 program on several grounds:

The B–1 promises to become the most expensive weapon system in military history, as well as one of the most worthless.

The Air Force may not need the B–1 at all. Critics claim it offers only marginal advantages over the existing fleet of strategic bombers.

By the time the B–1 becomes operational, around 1980, it may well be obsolete.

By going ahead with a new strategic nuclear bomber, the United States will be giving costly and dangerous impetus to the arms race with the Soviet Union at the very time the two countries are supposedly trying to agree on a limitation of nuclear weapons.

For those unaccustomed to the ethereal realms of military finance, discussion of the cost of the B–1 program can be difficult. How does one talk meaningfully about billions of dollars to the average citizen, whose largest personal financial concern is the mortgage on his house? Even on Capitol Hill, where millions tend to get tossed around 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 priorities, the $370-million just voted by Congress for engineering development alone on the B–1 is far more than the federal government will spend this 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 State Department. Even 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. Arms Control and Disarmament Agency. For 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 and its supporters on Capitol Hill argued that the current contract covers only the construction and testing of a few prototypes, at a cost of a mere $2.6-billion. The Pentagon insists it will carefully examine the results of this test program, in 1974, before deciding to go into production in 1975. The trouble with this argument is that the investment of $2.6-billion in public funds (compared to "only" a few hundred million dollars spent on the SST before its termination) will constitute a persuasive reason to go ahead with production. If the program is canceled at that point, there will be nothing to show for all that money.

Staggering as they are, the Defense Department figures on the B–1 program strike those familiar with military procurement as exceedingly optimistic and even intentionally misleading. Although the plane is still only in the research and development stage, the Defense Department's cost estimates on the total program have already risen from $8.8-billion in 1969 to more than $11-billion today. (This initial cost "growth" has occurred despite several supposedly cost-cutting moves by the Pentagon, such as scrapping the plane's high-altitude supersonic speed capability and reducing the number of prototypes to be built for testing.) While Pentagon officials are quick to blame most of this cost increase on inflation, their current estimates fail to allow for any equally predictable inflation during the procurement stage of the program, which will run from about 1975 into the 1980s.

In addition to inflation, the Pentagon's cost estimates on the B–1 ignore a number of other items that must be considered part of the total program. Along with its normal nuclear bomb load, each B–1 will be armed with from ten to twenty nuclear-tipped Short Range Attack Missiles (SRAMs). Because of numerous difficulties, modifications, and schedule delays on the SRAM program, Pentagon cost estimates for each missile have grown from $338,000 in 1965 to a current figure of nearly $900,000. Even this amount does not include the cost of the SRAMs' nuclear warheads (because they are produced by the Atomic Energy Commission), which will boost the unit cost for each missile over $1-million. Depending on the number of SRAMs carried, they will thus add $10- to $20-million to the actual operating cost of each B–1.

Along with its nuclear missiles, the B–1 will also carry a number of "subsonic cruise armed decoys" (SCADs) and all sorts of other electronic exotica designed to help the plane confuse and penetrate enemy defenses. The B–1's avionics, which includes all the gadgetry for the navigation, communication, and weapons delivery systems, and which will account for much of the plane's cost, have not even been designed yet. Depending on the nature of the avionics package, it could easily cause a substantial increase in the cost of each plane. Then there are the costs for operation, maintenance, ground support, and spare parts, which never seem to be included when the Pentagon quotes a price for a proposed new plane. Included or not, the public will have to pay them.

When all the bombs, SRAMs, SCADs, avionics, and "extras" are added up, the Pentagon's current $40-million per plane estimate for the B–1 looks ridiculous. A study by the administration's own Office of Management and Budget indicates the cost of each B–1 may easily reach $80-million. The OMB's estimate caused such concern during the administration's deliberations on this year's Defense budget that the White House told the Pentagon to prepare an analysis of alternatives to the B–1 program. In response, the Air Force merely summarized its previous arguments for the B–1. When OMB Director George Shultz criticized the Pentagon's failure to provide a meaningful analysis of the alternatives, Deputy Secretary of Defense David Packard reportedly threatened to quit if the White House did not go along with the B–1 program.

Critics of the B–1 consider the figure of $80-million a conservative estimate for the eventual cost of each bomber. As evidence, they bring up the tanker issue. A fleet of B–1s may need a new fleet of tankers because their unrefueled range of about 6,000 miles will be only half that of the late-model B–52 bombers they are scheduled to replace. Without adequate assurance of mid-air refueling, the B–1's strategic usefulness would be sharply limited. Defense Department spokesmen insist the B–1s can be refueled by the present fleet of KC–135 tankers now used to refuel the B–52s. However, Gen. Bruce

Holloway, commander of the Strategic Air Command, which will fly the B–1s, recently 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–1s, instead of only the planned 240.)

Despite its claims to the contrary, the Pentagon has already funded a $500,000 feasibility study on a new tanker to replace the KC–135. The most likely replacement would be Lockheed's C–5A, which the Air Force maintains would cost a mere $27-million each in a tanker version. (How the Air Force would manage to buy C–5As at that price is an interesting matter, since it is now paying more than double that figure for the cargo version of the same plane.) Even at that optimistic price, a fleet of 250 C–5A tankers—the usual number mentioned—would cost nearly $7-billion. Added to the cost of the rest of the B–1 program, this would run the procurement and operating cost of each B–1 to well over $100-million, which would be some sort of world record.

Counting the tankers, the bombs, the missiles, the extras, and inflation, responsible critics of the B–1 estimate the total program cost between $30- and $50-billion. In view of such estimates, Congressional and scientific critics wonder whether the plane is worth such a princely sum. They feel it 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 "gallant old lady" of the air that has served its time and is now aging rapidly into technical 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 imminent obsolescence have proved premature. In 1960, for example, the Senate Preparedness Investigating Subcommittee concluded that the B–52 would "enter its period of obsolescence in the mid-1960s." By the mid-1960s, however, Air Force Secretary Harold Brown was telling Congress the late-model B–52Gs 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–52Gs and Hs cannot be maintained through 1980, if that should prove necessary." In 1969, in a letter to Senator McGovern, Defense Secretary Melvin Laird increased the B–52's life span to "the early 1980s with appropriate modifications."

Somehow the 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 255 late-model B–52Gs and Hs, the life span of their strategic effectiveness could easily be extended through the 1980s, according to Professor Marvin Goldberger, chairman of the physics department at Princeton. Dr. Goldberger's views on strategic bombers warrant some attention: He was chairman of the Defense Department's Strategic Weapons Committee in the early 1960s and chairman of the Strategic Weapons Committee of the President's Scientific Advisory Committee in the late 1960s. He is currently chairman of the Federation of American Scientists and of its strategic weapons committee. In recent testimony on the B–1 before the Senate subcommittees on arms control and defense appropriations, Dr. Goldberger claimed that for a cost of only $1 billion the entire fleet of B–52Gs and Hs could be refitted with the latest high-thrust turbo-fan jet engines. These engines would shorten the necessary takeoff distance, increase cruising range by 25 per cent, and thereby reduce refueling needs. According to Dr. Goldberger, the modified B–52s, equipped with such engines and armed with the same bomb and missile mix as the B–1, would be nearly as effective as the B–1. In view of the enormous cost of the B–1 program compared to that (about $1.5 billion) of modifying the already existing fleet of B–52s, it is hard to justify the B–1's 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 1980. First of all, the B–1 was supposed to become operational in 1976, according to the Pentagon's 1969 planning estimates. Since then, "schedule slippages" have forced the target date for initial operation up to 1979. Inasmuch as the B–1's complex avionics have yet to be designed, there may very well be further schedule slippages.

During the past few years, the B–1's planned capabilities have been seriously reduced because of technical and cost problems. Originally, the plane was to have flown at supersonic speeds at both high and low altitudes; however, as the Russians improved their surface-to-air missiles (SAMs), it became clear that even at supersonic speeds a high-flying B–1 would still be a sitting duck for the latest Russian SAM–2 or SAM–3. So, the Air Force has dropped the B–1's high-altitude supersonic capability but has retained it at low altitudes, which would supposedly enable the plane to sweep in fast and low near ground level, thereby evading enemy radar. Students of modern anti-aircraft defense systems, however, are convinced that by the time the B–1 becomes operational around 1980, the Russians will certainly have perfected a "look-down" radar-missile system capable of spotting and destroying low-level bombers.

Because of the likelihood that the Russians will develop a sufficiently sophisticated defense to counter the threat of any U.S. strategic bomber, the Federation of American Scientists, as well as the Members of Congress for Peace Through Law, thinks the B–1 should be scrapped, or at least delayed, before we spend any further money on it. In its place, the FAS suggests an airborne "stand-off missile platform." Such an aircraft would not attempt to penetrate enemy radar defenses, but would loiter outside them, ready to launch a variety of short- or long-range nuclear missiles.

As an alternative to the B–1, a stand-off missile-launching aircraft offers several distinct advantages:

Already existing and much cheaper aircraft could be used—either the B–52, or converted versions of Lockheed's C–5A or Boeing's 747.

A supersonic speed capability would not be required, nor would the complex avionics 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, thereby reducing the need for a new fleet of tankers.

When pressed by critics of the B–1's future strategic value, the Air Force often tries to justify the plane by falling back on its versatility, pointing out its potential usefulness as a nonstrategic bomber in such "conventional" wars as the one in Vietnam. The trouble with this position is that we already have a new bomber designed for such conventional wars: the FB–111. Now replacing the early-model B–52's, the FB–111 can carry the same (although fewer) bombs and missiles as the B–1, with greater speed and maneuverability. (The FB–111 could also serve as a strategic bomber, although its limited range would restrict it to "only" 40 per cent of the strategic targets in the Soviet Union, compared to the 60 per cent reachable by the B–1. In a nuclear war, however, such distinctions may well become indistinct. Even without any strategic bombers at all, Soviet and American land- and sea-based ICBMs should wreak quite enough destruction to satisfy the most maniacal generals.) Mainly in order 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 the fact that we can buy at least ten FB–111s (at $10-million each for the cost of each B–1), this could prove to be a terribly expensive way of conserving funds.

To fully understand the Air Force's fervor for the B–1, one must realize that for many USAF generals it represents much more than something to be measured in terms of strategic performance or cost-effectiveness. When they describe its marvelous but as yet undemonstrated capabilities, 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, a former staff member of the Hudson Institute, and the author of two books on arms control, stated:

"Air Force supporters are, almost of necessity, technological enthusiasts. They want to 'get the best,' 'incorporate new technology,' and fly faster—and either higher or lower—than before. These are not, in themselves, national security interests, and they do not provide a sensible argument for building a new bomber, now or later."

Despite the fact that defense technology persistently outpaces them, manned bombers have long been the favorite toy of Air Force generals. Most of today's top USAF officers began their careers in the manned bomber days of World War II and look back upon that era of relative technological simplicity with nostalgia. Since then, the path up to the top has generally led them through the Strategic Air Command, which flies the bombers. The last three USAF Chiefs of Staff—Generals Curtis LeMay, John McConnell, and John Ryan, 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 it became operational, however, the Defense Department realized the B–58 was technically obsolete and mothballed the eighty planes already purchased. Then came the infamous B–70, a supersonic bomber of incomparable quality—on paper. In reality, the B–70 program never got beyond the construction of two prototypes, at a cost of $1.5-billion. One of them crashed after colliding with an Air Force plane taking pictures of it. The other now sits 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 cut the funds for the B–1: "Here we go again, starting out a new manned bomber in an age when manned strategic bombers are obsolete."

In his testimony before Congress, FAS Director Stone tried to explain why the manned bomber has become a technological anachronism: "No really essential task of destruction can be reliably assigned either the B–1 or B–52, because the survivability and penetrability of neither can be ensured." Besides, he noted, "While the B–1 is taking four hours to fly six thousand miles . . . eight successive missile salvos—four on each side, and each 'answering' the other—could take place. The war may well be over before the bombers arrive."

FAS Chairman Marvin Goldberger argues that "there are very few targets that cannot

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 many years. In an attempt to play the "they've-got-one-so-we-need-one" game, supporters of the B–1 have been sounding an alarm over a new Soviet nuclear bomber dubbed Backfire, which has already made test flights. According to Western intelligence sources, however, the Russians have not yet decided to go into production with the Backfire, perhaps waiting to see what happens to the B–1.

Dr. Goldberger has conceded that some B–1s could conceivably penetrate Soviet air defenses and destroy cities and other strategic targets. But he also predicts that these cities might well have been long since destroyed by missiles.

Despite such arguments, proponents of the B–1 think the United States should continue to rely upon a "triad" concept of nuclear deterrents: land-based ICBMs, submarine-based Poseidon missiles, and manned strategic bombers. Whether or not the manned bomber still represents a realistic threat, they feel it does serve as a form of insurance for the other two. In the Strangelove logic of nuclear war-game theory, it also has the virtue of increasing the number of threats the enemy must consider before launching a first strike. As Missouri's Representative Richard Ichord pointed out, during the House debate on the B–1, it "forces the enemy to expend large sums and scientific talent for multiple defense systems." Mr. Ichord neglected to mention that in order to achieve this effect, the United States itself will have to expend far greater amounts on the B–1.

Spending huge sums of money on weapons of dubious necessity and efficacy in order to force the enemy to do likewise obviously seems like a sensible policy to many Congressmen and Pentagon officials. To others, however, it typifies the insanity of the arms race between the United States and the Soviet Union. In a similarly insane argument, manned bomber advocates insist that we must go ahead with the B–1 in order to give the U.S. negotiators a better bargaining position at the current round of Strategic Arms Limitation Talks in Vienna. By going ahead with development of the B–1, they argue, we will have a valuable "blue chip" to play with at the negotiation table. This notion of arms control may provide interesting material for think-tank game-theorists, but such multi-billion-dollar games are both dangerous and terribly expensive in a country with insufficient funds to meet its domestic needs.

As Professor Goldberger told the Senate Subcommittee on Arms Control: "I find it unbelievably depressing that we should continue to discuss new bombers and other weapon systems as though this insane arms race must continue forever. Now is the time to bring this ghastly game of charades we have been playing with the Soviet Union for the past quarter century to an end—not the time to propose new weapon systems."

FARM SUBSIDY PAYMENTS

Mr. HARRIS. Mr. President, I wish to bring to the attention of my colleagues an article written by Nick Kotz that appeared on page A1 of the December 8 Washington Post. The article, entitled "Subsidy Chief's Farm Probed," discloses the fact that Kenneth E. Frick, administrator of USDA's Agricultural Stabilization and Conservation Service—and more than one-third of his farm neighbors in California's rich Kern County—have been reported in violation of crop subsidy regulations. Mr. Frick is the USDA official in charge of the crop subsidy program.

Mr. President, the crop subsidy program in this country is a national scandal. I have no objection to the original purpose behind this program, which was to help independent farmers. But today the program has become just one more mechanism for redistributing income from the working class to the wealthy. That is redistribution of income in the wrong direction, Mr. President, and it is about time we reverse that kind of practice in this country. Yet today we hear that the USDA official in charge of crop subsidy payments will receive $95,000 this year from that very same program.

Mr. President, Congress just last year passed a $55,000 limit on the maximum amount any one farmer can receive from crop subsidy payments. It ought to be $20,000. But apparently even that law is not being enforced. Now I know, Mr. President, that there are "legal" loopholes that can be used to avoid the $55,000 ceiling, and it is probably through these loopholes that Mr. Frick will receive his $95,000 this year. But the spirit of the law is clear, and it is equally clear that the spirit of the law is not being followed.

Mr. President, last week I stood on the floor of the Senate and urged the rejection of the nomination of Dr. Earl L. Butz as Secretary of Agriculture because I felt that we need the independent farmer's interest and the public interest represented in the U.S. Department of Agriculture, and not Dr. Butz' personal corporate interests. Today, Mr. President, I find that the official in charge of administering our crop subsidy program has profited from that program. What is worse is that this same official is now under investigation by his own office for violations of the program he heads. Under these circumstances, I see no alternative but to call for his resignation. It is time to end the kind of government in which the administrator of a Federal farm program receives hundreds of thousands of dollars from that program. People do not trust that kind of government, Mr. President, and they ought not to. Defenders of Mr. Frick will point out that his farm interests are held in trust by the Bank of America. Putting his farm in a trust does not remove his financial stake in it, nor does it eliminate the fact that his brother manages the farm.

Mr. President, we need all the facts about this very disturbing situation. Mr. Kotz' article reports that besides Mr. Frick's farm, 467 others in Kern County have been cited for crop subsidy program violations. Kern County is the second richest county in the Nation in farm receipts and also ranks second in Federal subsidies. In 1970, 311 farms in Kern County received more than $20,000 in Federal subsidies, 105 received more than $55,000, and 37 received more than $100,000. Kern County is one of the leading homes of agribusiness, Mr. President, including such familiar farmers as Tenneco 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 two reports on Kern County 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 and report on each of Kern County's 1,190 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, I ask unanimous consent that Mr. Kotz' 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

(By Nick Kotz)

Agriculture Department official Kenneth E. Frick, along with more than one-third 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 467 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 1,190 farmers will receive $27 million in federal payments this year, primarily from the cotton program.

Farmers 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 $55,000 per crop limitation on farm payments.

Frick stressed that official findings have not been made in any of the cases, and that farmers still may prove that they were complying with program regulations. Frick's office is in charge of enforcing regulations 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. Nevertheless, the federal official running 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.

Cotton farmers such 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 (previously used as a windbreak) as his retirement land, and for using other land of questionable value for "set aside" purposes. The Frick farm and numerous others were cited by inspectors as retiring alkali land (high in salt content) rather than land comparable to that in production.

Frick said 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 $95,000 this year. Both Frick and his brother would be entitled to a maximum $55,000 payment.

Questioned whether he is not, in effect, investigating a violation on his own farm, Frick said: "I have confidence in our inspection system. The system triggered this examination of farms. As to my farm, my brother is in charge of it and will have to answer for it."

Frick's assistant Cox then added: "Our instructions (from Frick) are to treat his farm like any other farm."

Frick said discrepancies were first turned up in Kern County in a routine "spot check," in which department inspectors visited states in which they do not normally work. Because of numerous discrepancies, Frick said, his deputies then ordered a check made of each of the county's 1,190 farms. Again, the check was made by inspectors from out of state.

He said the determination of violations is now in the hands of the Kern county ASCS committee, under supervision of the California state committee. However, he said one member of the three-man county committee is not participating in decisions because his own farm is being questioned.

Frick stressed that the county and state committeemen are elected by fellow farmers and thus are free to criticize any farm, including his own.

Cox said the inspection team turned up 547 violations on 468 farms. He said the team considered violations as "serious" on about 200 farms.

Cox said farmers could lose part of their federal farm payment for minor infractions and the entire payment for major violations. Severe violations, including fraudulent evasion of the $55,000 payment limitation, could lead to criminal prosecution.

Frick 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."

"What we found in Kern County, I would have to describe as 'bad'," said Cox, in a joint interview with Frick. "It was not typical."

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., December 8, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. FRICK: An article by Mr. Nick Kotz appearing on page A1 of his morning's *Washington Post* raises very serious conflict of interest questions concerning your financial interests and your position as administrator of USDA's Agricultural Stabilization and Conservation Service. The fact that you received $190,000 in cotton payments in 1970 and will receive about $95,000 this year should disqualify you from administering the office in charge of these programs. Your position is further compromised by the fact that your farm is now under investigation for reported violations of the crop subsidy program that you administer.

If these facts are correct, I see no alternative but that you resign from your position as administrator of USDA's Agricultural Stabilization and Conservation Service. That you have placed your farm in a trust does not remove your financial stake in the program you administer. At a time when there has been a serious erosion of public faith in government, the integrity of such programs as those administered by the Agricultural Stabilization and Conservation Service must be maintained.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

U.S. SENATE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., December 8, 1971.

Hon. EARL L. BUTZ,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I read with considerable alarm an article by Mr. Nick Kotz that appeared on page A1 of this morning's *Washington Post* that discloses large-scale violations of crop subsidy regulations in Kern County, California.

Kern County, as you know, is the second richest county in the nation in farm receipts and also ranks second in federal subsidies. In 1970, 311 farms in Kern County received more than $20,000 in federal subsidies, 105 received more than $55,000, and 37 received more than $100,000. Kern County is also the home of many leading agribusiness giants such as Tenneco and Standard Oil. The federal taxpayer ought to know whether it's these agribusiness giants that are pulling in these huge subsidies and, in many cases, violating the law while doing so.

It is my understanding that two reports on Kern County have been made by USDA investigating teams. The first, done by a spot-check team, found numerous irregularities in the subsidies program. This prompted a second investigation and report on each of Kern County's 1190 farms. Please send me immediately copies of each of the above-mentioned reports.

I am enclosing for your information a copy of a letter I sent today to Mr. Kenneth E. Frick concerning his financial involvement with the crop subsidy program he administers.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

REVENUE ACT OF 1971

Mr. NELSON. Mr. President, the Senator from Oklahoma (Mr. HARRIS) had intended to be here today to speak against this conference report. Unfortunately, an illness in the family has prevented him from being here. I ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF SENATOR FRED B. HARRIS IN OPPOSITION TO THE CONFERENCE REPORT ON THE REVENUE ACT OF 1971

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 completely unacceptable. I did not like this bill before, and I do not like it now. The improving amendments added to the bill by the full Senate have been stripped from the bill in Conference. Additionally, the tax check-off for campaign contributions for presidential candidates has been so badly mutated that it is now almost worse than no provision at all. The campaign contribution check-off was one of the few good parts of the bill when it passed 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 rewritten 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 1973.

However, the guts of the campaign spending amendment—automatic public financing of presidential campaigns beginning in 1972 as well as tax credits for all campaigns next year—were ripped out by the conference committee. The conference report removes the automatic appropriation for presidential campaigns and substitutes an annual appropriation. 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 appropriation, just as the current incumbent threatened to do with this bill. Likewise, a Senate minority, unhappy with the presidential nominee 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 and vested interests. I think we have a responsibility to help restore the people's faith in the openness of the political process. The campaign spending provisions of the conference report by no means meet that responsibility.

Mr. President, the major defects present in the tax provisions of this bill as it came to us 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 $75 billion to big business by 1980, and will only give a small fraction of that amount 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 $2.5 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 adjustments 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 $1,300 in 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. At that time we made much of the fact 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 to try to stop multimillionaires from being able to dodge their tax responsibilities entirely. And we told the people of this country that as a result the big corporations and the wealthy were going to have to pay more nearly their fair share of taxes.

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

In 1969, we were, however, moving in the shake from out tax system. It was not. right direction. The tax bill before us today reverses that direction. H.R. 10947 will make our federal tax structure significantly more unfair to the average taxpayer than it is today. While Administration spokesmen claim the bill balances tax cuts to big business with cuts for ordinary people, the facts show just the opposite.

The Investment Tax Credit giveaway will be a windfall of $45 billion to business between now and 1980. Proponents of 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 will come about and the number of jobs that will come from the "trickle-down" approach of a tax credit to big business. There is much evidence to make us believe that the tax credit may actually have a negative effect on employment. Surely, with plant capacity being utilized at only 73 or 74 percent, there can be little incentive to invest in expansion. What industry lacks is not machinery but customers—and the investment tax credit could, by parallel decreases in federal spending, actually lead to the decrease in available jobs. The cutback in federal employment and the postponing of needed social programs hits the low and middle income Americans and deprives them not only of the social results of those programs, but of the jobs that will result from new programs.

In addition, the Investment Tax Credit will encourage the increased concentration of power in our society. The credit will bestow most of its benefits on capital-intensive firms, and these firms frequently are found in oligopolistic and monopolistic industries. Small, new and less capital-intensive firms are discriminated against by the structure of the tax credit, while large firms reap high tax benefits. The tax giveaway can lead to profits of over 15 percent at minimum to large corporations. Yet, today corporate profits are at a healthy level, and increasing, and cashflows have increased substantially during the present recession.

The Asset Depreciation Range provision included in this bill is a windfall on top of another windfall. There doesn't seem to be any credible authority who will tell us that the ADR will help stimulate the economy. What we do hear, however, are many economists telling us that the ADR plan will only result in a gross resource misallocation; will have very little stimulative effect on investment in the short run; will reward firms who have deliberately avoided meeting the existing Reserve Ratio Test; and will remove pressure on inefficient producers to modernize. Since it applies to both old and new equipment, it is a windfall to a considerable extent, and the cost to the Treasury will be over $27 billion by 1980.

There are numerous programs needed in this country in these next years to increase the quality of life, reduce the tax burden on individuals, assure every able-bodied man a job, and improve our environment. Those programs could well use the $27 billion being given to big business by the ADR giveaway. Additionally, those necessary programs will be a direct stimulus to the economy and will directly affect the people who most need a stimulus—the lower and middle income persons who make up the bulk of our population.

The main argument given by the Treasury for the ADR is that it will stimulate investment, and thus jobs. I can find absolutely no foundation for this claim. American industry is now using about 73 percent of its plant and equipment. Under such circumstances, business will have little reason to increase their purchases of equipment. The uselessness of the ADR as a stimulus is even admitted by those who will be taking full advantage of its benefits.

James Roche, Chairman of the Board of General Motors, said recently: "It should be understood that most companies of any size determine their purchases of equipment by the needs of the business and not by any short-term tax advantages." In other words, until business picks up and consumers start buying again, investment is unlikely to make major gains—even with both the investment credit and ADR.

In DISC we find much of what is wrong with the American tax code. Like existing loopholes, it is a proposal that over time will instill an even greater sense of unfairness and ill will among taxpayers. Over time it will represent another step towards wider scale efforts at tax evasion.

On virtually every count it fails the test of good taxation. Its economic effects are uncertain even to officials who must defend it. Its revenue effects are unfair to the majority of taxpayers who will not benefit from it. Its technical provisions are unclear to those who must administer it.

An extraordinarily complex measure, the DISC has no counterpart elsewhere in the world. But to the degree that it was effective, we can be certain that it would be copied. In that event whatever benefit the U.S. economy derived would be offset. Experience in the Fifties and Sixties has demonstrated that trade gimmicks are quickly copied.

A major departure in U.S. tax practice, the DISC has not received adequate study. The Treasury has not come up with a single study of DISC. The only available study, performed by the Congressional Joint Committee on Internal Revenue Taxation, raises serious questions concerning its desirability. The President's Commission on International Trade and Investment Policy refused to recommend DISC in its recent report.

The DISC is unfair. It benefits a handful of companies which already are assured enormous gains because of future changes in the exchange rate.

I am fully persuaded that the American people would demand that the Congress decisively reject the DISC if more of us understood the basic economic fact that any devaluation of the dollar is equivalent to a large and open subsidy to exporters.

If a nation cannot pay its way abroad, it has no choice but to devalue. But before we pass out additional subsidies, we should clearly understand which part of the economy benefits from the original action of devaluation.

In the U.S. economy it is a very small sector. A handful of giant companies, around 100, account for approximately 50 percent of U.S. exports. It is these companies which will receive the export subsidy, worth billions of dollars, caused by the U.S. devaluation.

I contend that when we are already giving these few companies so much, it makes no sense to provide them with even more by creating the DISC.

As approved by the Senate Finance Committee, the DISC when fully operative will benefit U.S. exporters by about $400 million each year. This revenue loss to the U.S. government will occur even if the DISC does not stimulate one additional dollar in exports. The reason is that, although the Administration does not like to emphasize this, DISC advantages apply to existing exports as well as any increase. I cannot imagine a tax measure more poorly conceived.

Just looking at the figures for 1972 in the bill as the Finance Committee reported it makes clear the big business bias of the bill. Altogether, the money given to big business provides something like a 15 percent tax cut for big corporations.

As George Meany, president of the AFL–CIO, pointed out in testimony before the Finance Committee on September 13, the corporate share of the tax burden in this country had fallen over the past ten years. In 1960, the corporations carried about 33 percent of the federal income tax load. The Treasury Department estimates that in the current fiscal year the corporate share will hit 28 percent.

Mr. President, this is hardly the time to cut corporate taxes. If there were any action the Senate should take on corporate taxes, in my view it would be to raise them—to make big business pay the fair share of the burden which it has never paid.

H.R. 10947, of course, does precisely the opposite. It is, again in the words of Mr. Meany, "the biggest tax bonanza in corporate history." In the name of stimulating the economy and providing the jobs, this bill deals a permanent blow to the fairness of our tax system. The Asset Depreciation Range System (ADR), the Investment Tax Credit, and the Domestic International Sales Corporation (DISC) together are a massive tax break to big business being pushed on the highly doubtful premise that they can create jobs, 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. If they were here today they could see that process for themselves.

The fact is, Mr. President, as I said at the beginning H.R. 10947 is a tax bill. The only thing we know for sure about it is that it will 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 taxes so a lot of big corporations and rich people do not, we would not accept this Conference Report.

ACTIVITIES AND ACCOMPLISHMENTS OF THE JOINT COMMITTEE ON ATOMIC ENERGY IN THE 92D CONGRESS, FIRST SESSION

Mr. PASTORE. Mr. President, as chairman of the Joint Committee on Atomic Energy, I should like to present for the information of my colleagues the annual report on the activities and accomplishments of the Joint Committee. This report covers the activities of this first session of the 92d Congress. I ask unanimous consent that the report be printed in the RECORD.

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 92D CONGRESS, FIRST SESSION (1971)

FOREWORD

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 Congress, the Executive Branch, 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 members of the same political party. The chairmanship alternates between the Senate and the House of Representatives with each Congress.

Present membership is: John O. Pastore, Rhode Island, *Chairman,* Melvin Price, Illinois, *Vice Chairman.*

Clinton P. Anderson, New Mexico, Henry M. Jackson, Washington, Stuart Symington, Missouri, Alan Bible, Nevada, George D. Aiken, Vermont, Wallace F. Bennett, Utah, Peter H. Dominick, Colorado, Howard H. Baker, Jr., Tennessee.

Chet Holifield, California, Wayne N. Aspinall, Colorado, John Young, Texas, Ed Edmondson, Oklahoma, Craig Hosmer, California, John B. Anderson, Illinois, William M. McCulloch, Ohio, Orval Hansen, Idaho.

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 responsibility as "watchdog" of the U. S. atomic energy program. As part of its responsibilities, the committee follows closely the classified activities of the executive agencies, including the Atomic Energy Commission and the Departments of Defense and State, concerning the peaceful and military applications of atomic energy. The unclassified activities are closely reviewed as well.

In all of these activities, the Joint Committee on Atomic Energy, representing the Congress and the public, seeks to assure 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 maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security. * * *

During the 92d Congress, first session, the full Joint Committee met on a total of 33 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 3 were executive.

A total of 7 publications consisting of hearings, reports, 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 (92d Con., 1st Sess.)

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.

Report (H. Rept. 92–325; S. Rept. 92–249), June 30 and July 8.

Naval Nuclear Propulsion Program—1971, Hearings Mar. 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 Construction 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.

I. Legislative activities

A. Atomic Energy Commission Fiscal Year 1972 Authorization Act (Public Law 92–84)

The Atomic Energy Commission's request for authorization of appropriations for fiscal year 1972 was submitted to the Congress along with the total Federal budget on January 29, 1971. Amendments to the AEC budget were received from the Commission on May 6 and June 11. The Joint Committee on Atomic Energy convened its hearings on February 3 to consider the proposed authorization legislation (S. 958 and H.R. 5522). During the succeeding 20 weeks, the committee held 15 additional sessions, five of which were executive due to consideration of classified information. The record of the public hearings was published in four volumes entitled "AEC Authorizing Legislation, Fiscal Year 1972." A declassified record of the hearing on naval nuclear propulsion program was published under the title "Naval Nuclear Propulsion Program—1971." In addition, the Senate Committee on Aeronautical and Space Sciences published the hearings held jointly with the JCAE on February 23 and 24 under the title "Nuclear Rocket Engine Development Program."

Following its deliberations on the proposed legislation, the Joint Committee voted to adopt certain amendments by way of reporting "clean bills." Vice Chairman Price, together with Congressmen Holifield and Hosmer, introduced H.R. 9388 on June 23, 1971, and Chairman Pastore introduced S. 2150 on June 24, 1971. These identical measures were favorably reported on June 30 (H. Rept. 92–325) and July 8 (S. Rept. 92–249) respectively.

The reported authorization bill recommended an increase of $37.2 million over the amount contained in the Administration's request but only approximately $5 million more than was authorized for the preceding year. The bill, H. R. 9388, was passed by the House with an amendment, on July 15, 1971. The amendment, offered by Congressman Hosmer, removed the $20 million ceiling on AEC furnished services, facilities or equipment available to or planned by the Commission under its civilian base program for assistance to the liquid metal fast breeder reactor demonstration program. Under the amendment, the new ceiling was placed at 50 percent of the estimated capital cost of the first demonstration plant. The Senate approved the amended bill with four additional amendments on July 20, 1971. Three of the amendments increased the level of funding authorized by $4 million as follows: Nuclear safety research $2.3 million; terrestrial electric power (cardiac pacemaker) $0.5 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 acquisition of interests in the land not in excess of 3 years in duration until an advisory council appointed by the President reports to the Congress that the project can be constructed and operated and waste material transported so as to assure public health and safety and environmental protection. The Senate amendments were considered by the House on July 27 at which time the House concurred in the first 3 amendments and adopted a substitute amendment relating to the Lyons, Kansas, project. That amendment, by way of clarification, provided greater specification of the limitations imposed on the authorization of funding for land acquisition. On July 31, 1971, the Senate concurred in the substitute amendment adopted by the House. The President signed the Act into law (Public Law 92–84) on August 11, 1971. The law authorizes appropriations to the Atomic Energy Commission for fiscal year 1972 in the amount of $2,325,187,000, as follows:

Operating expenses	$2,029,571,000
Plant and capital equipment	295,616,000
Total authorization	2,325,187,000

Among the highlights of the Joint Committee report, which accompanied the authorization bill, were the following:

Assurance of adequate *uranium enrichment capacity* to meet the ever increasing demand, both domestic and foreign, continued to be a matter of highest priority before the Joint Committee. As in the past few years, the timely implementation of the Cascade Improvement Program was the point of primary concern. The monies authorized and appropriated for that program for fiscal year 1971 had not been made available until the end of the fiscal year, but the release of those funds was viewed as a positive sign. The committee remained convinced of the necessity to move forward vigorously with the program and accordingly recommended the addition of $35 million to the budget. The Congress agreed to the necessity to move forward and appropriated $25 million.

The committee continued its strong support for the liquid metal fast breeder reactor (LMFBR) program, the priority project under *reactor development and technology*. By way of a budget amendment, the Administration increased its original request by $17 million to a total of $120 million for the base technology program which request was approved. Also approved was the request for an additional $50 million to be employed as Federal financial assistance for the first demonstration project authorized in fiscal year 1971.

The committee also evidenced its support of other aspects of reactor development. Authorization of funds for the high-temperature gas-cooled reactor and the nuclear desalting programs was increased. Continued support was provided for the light water breeder reactor (LWBR), the molten salt breeder reactor (MSR), and the gas-cooled fast breeder reactor (GCFR).

The largest reduction in the budget recommended by the committee was relative to authorization for construction funds for a *National Radioactive Waste Repository* proposed for Lyons, Kansas. The committee reduced the request by $21.5 million, recommending the $3.5 million for land acquisition and design. The committee supported the Administration's amended request for $1,850,000 in operating funds for additional research and development associated with this project.

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 if any real accomplishment during fiscal year 1972 and recommended that the amount be increased by $37 million to $52 million. This action was taken in part to assure AEC funding commensurate with that recommended for NASA by the House Committee on Science and Astronautics, since this program is a joint agency effort.

The Joint Committee noted, as it had for the past several years, that there could be grim days ahead for AEC *high energy physics* laboratories if the downward trend in funding continued. The committee pointed out that the National Accelerator Laboratory is expected to be fully functional by July 1972 and that the operating budget alone for this installation will be about $50–$60 million per year. The committee asked the AEC to provide a report by December 31, 1971, indicating a priority listing of accelerators to provide a basis for allocating available resources in such a manner that viability and productivity will be assured.

B. Legislation Regarding AEC Licensing Procedures

The Joint Committees' Subcommittee on Legislation held extensive public hearings on June 22, 23 and July 13 and 14, 1971, on legislation proposed by the AEC to amend certain of the existing provisions of the Atomic Energy Act of 1954, as amended, which concern the licensing of nuclear facilities (S. 2152 and H.R. 9286 and S. 2151 and H.R. 9285). An opportunity was also afforded sponsors of related bills referred to the committee to testify. The related bills concern Federal-State regulation of radioactive effluents

ents from nuclear facilities (H.R. 997, H.R. 1743, H.R. 3683, H.R. 6933, H.R. 7539, and S. 2050); and the transfer of certain AEC regulatory authority to other agencies (H.R. 1197, H.R. 1742, H.R. 6310, and H.R. 9542). The four-volume record of these hearings has been printed ("AEC Licensing Procedure and Related Legislation").

The testimony presented at the hearings emphasized the need for procedural changes to improve the licensing process for nuclear power reactors. Although the objective of the AEC's proposed early site legislation of providing for early resolution of environmental issues was generally viewed favorably by the witnesses, numerous valid questions were raised regarding its practicability. Such matters as the relationship between the early site and construction permit proceedings, the relationship of the early site authorization proceeding to other requirements such as the review required to comply with the National Environmental Policy Act (NEPA), requirements under water quality legislation, and the permits under the Refuse Act of 1899, the opportunity for hearing at the operating license stage, and the compatibility and harmony of the siting provisions in H.R. 9286 with general power plant siting legislation currently pending before other committees were not thoroughly developed in the testimony. Furthermore, considerable doubt was expressed as to whether sufficient information could reasonably be made available at the early site authorization stage to settle with finality all significant site-related environmental matters.

There was general agreement that the Commission, under its existing legislative authority, could take many procedural steps to improve the licensing process.

In view of such questions and in the absence of any clear showing by the AEC that the proposed legislation would resolve any short-term problem even if enacted this Session, the Subcommittee on Legislation announced on October 19 (JCAE Press Release No. 665) that it would appear more prudent for legislative action to await further developments on overall power plant siting legislation currently pending before other committees. An objective of overall power plant siting legislation should be to recognize the AEC's responsibility for all radiological considerations associated with nuclear plants, and to place in State and regional authorities the general responsibility for deciding other environmental matters. The press release stated that it is hoped that such legislation, which is vitally needed to provide our Nation with a coherent and rational power plant siting policy, will soon be enacted; and in the meantime, the Commission was urged to work with States, such as Maryland, which have recently enacted power plant siting legislation to assure that appropriate State officials are aware of applicable requirements for the approval of sites for nuclear plants and that everything is done to coordinate the required approvals.

A Joint Committee on Atomic Energy staff analysis of the testimony presented at the regulatory hearings was published in the Congressional Record of November 1, 1971 (E 11577).

Subsequent to the completion of these hearings, a major influence upon the licensing process was the Calvert Cliffs decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit on July 23, 1971. Practically all of the basic problems raised by that decision stem from interpretation of NEPA and the Water Quality Improvement Act of 1970. Corrective legislation, if needed, would be under the cognizance of the committees responsible for NEPA and water quality legislation and could address the problems involved which are not concerned solely and directly with the licensing of nuclear power plants—they affect 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. If it is demonstrated that corrective legislation is needed and that it is not forthcoming from others, the Subcommittee stated that it will carefully consider proposals relating to the implementation of NEPA in the limited sphere of licensing of nuclear power plants. It is noted that the Commission has published regulations, which it believes will be adequate, to meet the dual challenge of environmental protection without undue delay which would threaten the vitality of regional power supplies. That view was expressed by Commission witnesses at the November 3 hearing and 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 held at a later date to receive testimony from interested members of the public on matters associated with nuclear power plant licensing other than in connection with H.R. 9285 and H.R. 9286. These additional hearings also await the corrective action taken under existing authority, and a reasonable opportunity will be afforded the Commission to act in that regard. It is noted that, during the closing months of this Session, the Commission appeared to be acting positively 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, Congressman Price, in his letter of October 19, 1971, to Dr. Schlesinger, forwarding the press release (No. 665) of the same date on the AEC's bills referred to above, said:

"The press release also reiterates several earlier suggestions by the Committee that the Commission act under the existing authority bestowed on it to make procedural changes in the licensing hearing process which are long overdue. . . .

"Although these matters have been discussed and considered for some time, the remedial action has been slow. It would be very much appreciated if the Commission would advise me 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 Chairman of the Administrative Conference of the United States and other interested persons will be used in this effort. I would like to be informed of any obstacles which are foreseen to implementing the procedural changes which may be needed to provide for more effective public participation in the licensing process and to restore vitality to the administrative licensing process.

"I close in noting that the press release also stated that if it develops that needed procedural changes will require additional legislative authority, the Committee stands ready upon request to consider carefully any proposal which the Commission forwards to the Congress."

II. Civilian 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 must elapse while Congress is in session before such agreements become effective. In accordance with such procedures, 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 research activities with Turkey and it was 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 pursuant to a trilateral 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 10 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 the four major CTR laboratories, and from the industrial and academic sectors testified. Additionally, witnesses from government, industry, and the AEC's CTR standing committee, who are not involved in the direct functioning of the program, were heard. Testimony was presented on the magnetic mirror program, the low beta toroidal program, the high beta pinch program, the status of fusion reactor studies, plasma physics research in universities and industry, and lasser pellet and very high energy density systems. The consensus of opinion was that scientific feasibility could be achieved by the end of this decade or slightly earlier depending upon the funds committed to CTR research. "Scientific feasibility" is defined as generating a plasma at about 100 million degrees centigrade which is essentially self-sustaining, i.e., as many new ions are fed into the system as are lost. The technical feasibility of a fusion 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 a greater investment of resources. Scientific feasibility must still await a new generation of larger CTR machines. A large infusion of funds at this time would not significantly 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 hearings held in March 1963. In the intervening 8 years significant advances have been made in improved seismological instrumentation and seismic signal processing through the use of data processing. The subcommittee heard witnesses from the Department of Defense, the Atomic Energy Commission laboratories, and from university 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 evader might conduct with a fair chance of not being identified, it was indicated that, depending upon the evasion technique used—decoupling, detonating in loose, dry soil, hiding in an earthquake, or using multiple detonations—a detectable but unidentifiable test as large as 50 or 100 kilotons might be accomplished.

The status of unmanner seismological observatories was discussed. No new work has proceeded in this field since approximately 1967. It was pointed out that new instrumentation is being developed particularly for the long-period Rayleigh surface waves. It is expected that sometime in the near future the most useful discrimination technique will be the comparison of M_s:m_b which is a measurement of the energy ratio of the long-period Rayleigh surface waves to the short-period body waves which pass through the center of the earth from a seismic event. It was suggested that to be able to detect, identify, and locate seismic events essentially

any place in the Northern Hemisphere would cost about $130 million and take 5 years to construct the necessary stations. This would also require a significant number of international agreements since many stations would have to be on foreign soil. Representative Price, Chairman of the subcommittee, indicated that the committee would study the data and might call additional hearings to determine what kind of weapons development program could be carried out by a determined evader under the detection thresholds indicated above.

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 removal of uranium concentrate from uranium ore. Tailings have been used as construction fill 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 radioactive emissions from radium include gamma radiation and alpha-emitting isotopes referred to as radon daughter products. Depending upon the level of radiation, there could be a public health risk associated with exposure to this radioactivity.

The Atomic Energy Commission, the Environmental Protection Agency, the Department of Health, Education, and Welfare have been assisting the Colorado State Department of Health in assessing the levels of activity in public buildings and private residences in the Grand Junction area. The Surgeon General of the U.S. Public Health Service, in July of 1970, provided to the State of Colorado recommendations concerning the levels of gamma and radon daughter product activity for which remedial action would 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 the 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 gamma radiation level and radon daughter product concentration. If successful, the correlation would aid in the conduct of house-to-house surveys and provide a more rapid means of determining whether remedial action is recommended in a given case. The agency spokesmen 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 AEC announced on July 28 that the Department of State and the AEC were prepared to undertake exploratory multilateral discussions on this matter.

Discussions on the sale abroad of United States enriched technology were held on November 1 and 2, 1971, with Australia, Canada, and Japan. On November 16 and 17 similar meetings were held with the members of the European Community (except Luxembourg). Also present were 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 a group of other countries has formulated a proposal for a specific project for the construction of a gaseous diffusion plant using U.S. technology as a multinational enterprise, and following reviews of such proposal within the Government. The Joint Committee plans to watch these negotiations closely.

The Joint Committee is also following closely developments in the proposed sharing of diffusion and centrifuge technology with domestic corporations. This matter was reviewed during the hearings on the fiscal year 1972 budget.

E. Naval nuclear propulsion program

The Joint Committee held two separate hearings in executive session on the naval nuclear propulsion program during which a number of subjects vital to our national 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 Subcommittee on Military Applications. The record clearly documents the success of this program that has now produced nearly 100 nuclear powered warships. The program has accumulated over 780 reactor years of safe operation, more than all our other reactor programs combined, and continues to make significant technological advances benefiting 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 the most powerful naval and maritime force in the world. The Soviet navy has undergone continuing modernization, building over twice as many combatant ships as the U.S. in the last 5 years. In the critical area of submarines they now lead the United States in nuclear submarines, they have established a nuclear submarine construction rate 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 Soviets lead in all types including ballistic missile launching submarines, they do not at present lead in nuclear powered ballistic submarines. Although based on their present high rate of construction, it is estimated they will exceed our Polaris fleet of 41 by 1974 or sooner.

The committee was pleased to note that the high-speed, SSN 688 Class, nuclear attack submarine construction program is finally proceeding. Accordingly, the committee supported full fiscal year 1972 funding of 5 ships of this class and advanced funding for at least 5 more. The committee also 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 depth during the hearings was the apparent action by the Department of Defense to stop building nuclear powered surface warships. The Joint Committee has long maintained that everything possible should be done to minimize the logistic support required to sustain our warships and that the proven effective way to do this is to give our major combatants the advantage of nuclear power. The decision to delay building nuclear powered carriers and frigates has serious implications for our future defense posture.

IV. Classified activities

A. Intelligence briefings

Representatives of the Central Intelligence Agency, the Department of Defense, and the Atomic Energy Commission have presented briefings to the Joint Committee 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 negotiation meetings in Vienna, Austria, and Helsinki, Finland. The committee has also received briefings in executive session from the Arms Control and Disarmament Agency on these important negotiations. The committee continues to follow this matter closely.

V. Other matters

A. New particle accelerators

The Los Alamos Meson Physics Facility (LAMPF) obtained a 100 Mev beam on June 21 about one month ahead of schedule. By July 1972, the facility should be ready to operate and conduct experiments at the planned energy of 800 Mev protons. This facility will be extremely useful in the years ahead for research in such varied fields as cancer research, nuclear weapons test simulation, and the production of currently scarce and expensive radioisotopes.

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 crew of Apollo 12 in November 1969; the second, by the Apollo 14 crew in January 1971; and the third, by the Apollo 15 crew in July 1971. All 3 experiments packages are working successfully; the SNAP–27 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 their 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 Supreme Allied Commander, Europe, and other military commanders on their duties and responsibilities particularly 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 met in public session to consider the nominations of James R. Schlesinger and William O. Doub to be commissioners of the Atomic Energy Commission. Mr. Schlesinger was nominated for the remainder of the term expiring June 30, 1975, previously held by Glenn T. Seaborg. Mr. Doub was nominated for the term previously held by Theos J. Thompson which expires on June 30, 1976. Mr. Schlesinger and Mr. Doub 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

Office of Economic Opportunity is this administration's cruelest blow to America's poor. It marks a new highpoint of insensitivity to the needs of our most vulnerable citizens: Our children and poor.

Mr. Nixon's objections were basically two: He felt that child care for all those Americans who may need it for their youngsters had not been proved necessary or desirable. And he thought that an independent legal services corporation would not be accountable to an acceptable degree. Objections like these point out the blatant hypocrisy of this administration. We only need go back 2 years to be reminded that the same President who vetoed the child development legislation yesterday, committed his 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 providing adequate day care. His 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 held the promise of providing better than 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 wrung compromises from the Congress to the point where all 17 members of the Legal Services Board would have been Presidential appointees.

This veto comes at a time when we have finally learned conclusively that the essential of good health care 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 as yet unnecessary and undesirable.

The hypocrisy of this act will be seen by the working poor as well. The gap 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 to help out the little guy would be "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 I had sent on 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 comparison 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 23. 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 falls short 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. What is required is 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, then I am prepared 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 for 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 limits 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 regions of our country.

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 next 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:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., November 23, 1971.

Hon. JOHN C. STENNIS,
U.S. 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 by the October 15 deadline, many districts need additional time. Because of this delay and the need to edit and process all returns, we do not expect to be able to issue final survey results until May 1972.

The current survey is not similar to the surveys conducted during the 1968–69 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) are operating under a voluntary plan negotiated with HEW pursuant to the provisions of Title VI of the Civil Rights Act of 1964; (3) operate one or more schools containing 50 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 release 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 and issue final results of these fall surveys the following 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 kindest regards.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., December 7, 1971.

Mr. J. STANLEY POTTINGER,
Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. POTTINGER: Reference is made to my letter of November 9th to Secretary Richardson 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 specific data concerning the 1971 school enrollment survey. This information will be needed at the beginning of the Second Session 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. Within that limitation, specific information is desired concerning each of the one hundred largest school districts listed in HEW Press Release A–66, dated June 18, 1971, as follows:

a. Percent of Negro students attending majority-white schools.

b. Percent of Negro students attending 80–100 percent Negro schools.

c. Percent of Negro students attending 95–100 percent Negro schools.

Also using the format of HEW Press Release A-66, the information in *a*, *b*, and *c* above is desired for the 11 Southern States and the 32 Northern and Western States. These figures are totals, of course, and not by individual school districts.

I accept the premise that the data available to you are preliminary in nature and subject to revision. I simply ask that the best information available be supplied in the limited number of categories listed above, and that this be done in a timely way, so that it can be utilized by the Congress in the consideration of pending legislation.

I sincerely hope that in the month between now and early January these figures can be provided me and I will appreciate your prompt attention to my request.

Sincerely yours,

JOHN C. STENNIS,
U.S. Senator.

"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 dreams of all Americans, both Republican and Democratic, and of the problems which our Nation must face in the future.

Senator MUSKIE talked about the politics 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 confront 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 EDMUND 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 a specific candidate—but victory next year for our principles and our party.

I believe the Democratic Party may be headed for serious trouble in 1972. And I believe the fault is not in others, but in ourselves.

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 nation's economic crisis . . . 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 partisans, we hope for his success and the country's recovery. The Administration was late. The Nixon effort will fall short. And none of us are satisfied with the goal the President has set—an unemployment rate 40% higher than when he took office.

We can say that and the words may lead to applause, especially at partisan dinners. But the blunt truth is that the economic appeals which still draw cheers may not win enough votes next November.

In 1972, millions of Americans may hear but refuse to heed a debate about numbers—the claim that Democrats can create even more growth—that we can guarantee even lower unemployment, even higher G.N.P., and even stricter controls on inflation. It is important to fight for a chance to do better—because there are people behind the numbers and they are suffering. But there is other suffering 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 economics and a soft pedal on other problems. That is an easy and tempting course—after all, it worked in 1970. But if the President falters again as he has so often in the past, no stump speeches will be needed to fix the blame. As citizens, we cannot hope for his failure. As politicians, we cannot depend upon it. And as Democrats and Americans, we would wrong our party and our country by overemphasizing economic appeals in the months ahead.

The economy should be an issue next year—and Democrats should question whether we can trust this Administration with our jobs and our dollars for another four years. And we must now start to ask other questions—not just because we need something more than economics to run on—but because our country cannot survive on more excuses 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 ghetto where injustice still breeds bitterness and despair . . . every sick patient who goes untreated because he cannot afford a doctor . . . every home where money instead of talent decides whether a son or daughter will have a chance for college. These are real and painful realities—but, in recent years, America's people and America's politicians have been reluctant to face them.

Deep down, I suspect that many of us have been afraid to take another chance on change. We saw hope die near an underpass in Dallas, on a motel balcony in Memphis, and on a kitchen floor in Los Angeles. We saw 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 came 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 a national news magazine called "the cooling of America." We reached back to Richard Nixon—to the image of what happened even before we tried to move our country forward. And since then, we have spent so much of our energy in recriminations about the past. Only a week ago, the Senate voted down a foreign aid bill—not because most Senators thought it was wrong to help human beings in need—but in reaction 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 can shape a more decent future.

I have found Americans everywhere 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 . . . medical care open to everyone, 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 as it can be. They want to learn from the past, but not to live in the past. And they want to be as 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 call our party has heard and answered almost from the day this nation was born. And we cannot respond now by skimming across the suface of an economic issue which only begins to touch America's deepest concerns.

As Democrats, we must speak to those concerns—and we must speak and work together. 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—or that only a new party could 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 invited them to leave, and for the beliefs all of us share. 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—yours and mine—is to build a coalition for change. Our task is to lead the nation—hardhats 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 tax reform. It is not fair to tell 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 intact—and lets giant corporations lobby for tax preferences and save billions for them.

We can also lead in the struggle for social justice. Most Americans have a stake in the outcome. Most of them would support national health insurance—so 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 300,000 veterans home from Vietnam and millions of breadwinners with families can move off of welfare rolls and onto payrolls. And most Americans would support equal rights for all Americans—in life as well as in law—for 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 domestic 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 can encourage a common effort. Law and order, for example, is not a black versus white issue. Black women are five times more likely than white women to become the 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 diversity. Surely, from our heritage and 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 have the issues to win the election. And more importantly, we have the chance to lead again.

So let us 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 again with John Kennedy 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 their own satisfaction and benefit of the Government;

Encourage and provide a means for free interchange of ideas;

Aid in improving 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 chapters and seven 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 deserves the attention of everyone employed by our Government, as well as those individuals employed in private enterprise. Consequently, I ask unanimous consent that "the ethics" be printed in the RECORD.

FEDERAL GOVERNMENT ACCOUNTANTS ASSOCIATION CODE OF ETHICS WITH OFFICIAL INTERPRETATION

INTRODUCTION

The Federal Government Accountants Association is a national professional organization most of whose members are primarily engaged in Government accounting, auditing, budgeting, and related financial management activities.

The membership represents most Government agencies as well as industrial, educational, and private personal service organizations having an interest in Government programs.

The Federal Government Accountants Association's major program objectives are to:

Unite professional financial managers in Government service to perform more efficiently for their own development and for the benefit of the Government.

Encourage and provide an effective means for interchange of work-related and professional ideas.

And in improving financial management techniques and concepts.

Improve financial management education in the Government and universities.

PURPOSE OF THE CODE

In order to foster the highest professional standards and behavior and exemplary service to the Government, this Code of Ethics has been developed as guidance for the members of the Federal Government Accountants Association and for the information of their employers.

DEFINITIONS

In instances where reference is made to a member, it is intended to include all classes of membership. Where reference is made to employer, it is intended to apply to a Government agency as an entity and to a non-Government organization where the principle is considered applicable.

EXPLANATIONS

To better understand each ethical principle, a justification or explanation is provided to indicate where and how motivation or prescription of action is intended.

ETHICAL PRINCIPLES

Personal behavior

1. A member shall adhere to the Standards of Conduct promulgated by his employer.

This principle endorses the commitment of Federal employees to recognize the Standards of Conduct prescribed by their Government agencies pursuant to Executive Order 11222 of May 8, 1965, (30 F.R. 6469), and the Code for Ethics for Government service adopted by the Congress on July 11, 1958.

2. A member shall not engage in acts or be associated with activities which are contrary to the public interest or discreditable to the Federal Government Accountants Association.

This principle cautions members to avoid actions which adversely affect the public interest and the professional image of the Association.

3. A member shall not engage in private employment or hold himself out as an independent practitioner for remuneration except with the consent of his employer, if required.

This principle identifies a restriction against private earnings which result from the use of a member's professional qualifications without the express approval of his employer if required.

4. A member shall not purposefully transmit or use confidential information obtained in his professional work for personal gain or other advantage.

This principle prohibits the improper use of official position or office for strictly personal purposes, monetary or otherwise.

Professional competence and performance

5. A member shall strive to perform the duties of his position and supervise the work of his subordinates with the highest degree of professional care.

This principle emphasizes the requirement for a member to give special attention to the professional aspects of his work and not to condone sub-standard performance at any level within his responsibility.

6. A member shall continually seek to increase his professional knowledge and skills and thus to improve his service to employers, associates, and fellow members.

This principle stresses the importance of professional development and the use of professional skills in helping his colleagues and employers.

7. A member shall render opinions, observations, or conclusions for official purposes only after appropriate professional consideration of the pertinent facts.

This principle stresses the importance of avoiding unsupported opinions involving professional judgements which could cause inappropriate official actions.

8. A member shall exercise diligence, objectivity, and honesty in his professional activities and be aware of his responsibility to identify improprieties that come to his attention.

This principle places the responsibility upon a member to exercise moral and independent judgement and to disclose illegal, improper or unethical practices noted in the course of his work.

9. A member shall be aware of the strive to apply requirements and standards prescribed by authorized Government agencies which may be applicable to his work.

This principle recognizes that special professional criteria are promulgated by authorized Government agencies [e.g., U.S. General Accounting Office, the Office of Management and Budget, the Treasury Department, and others] which require attention in certain assignments.

Responsibilities to Others

10. In the performance of any assignment, a member shall consider the public interest to be paramount.

This principle stresses a member's foremost concern for the public interest in any specific work situation involving competing interests.

11. A member shall not engage in any activity or relationship which creates or gives the appearance of a conflict with his responsibilities to his employer.

This principle cautions against becoming involved in situations where a member's official or personal activities are inconsistent with his responsibilities to his employer.

12. In speaking engagements or writings for publication, a member shall identify personal opinions which may differ from official positions of his employer.

This principle stresses the need to avoid inappropriate interpretations by the public from speeches or articles by members which reflect personal rather than official viewpoints of their employers.

NOTES

Guidelines of the Federal Financial Management Standards Board present conclusions of at least two-thirds of the members of the Board. The Board is the senior technical body of the Association charged with the responsibility to study, develop, and promulgate standards and principles in financial management areas relating to ethics, education, accounting, auditing, budgeting and other fields pertinent to the Association's interest.

Arthur L. Litke, Chairman; John P. Abbadessa; William J. Armstrong; Donald Bacon; Andrew Barr; John R. Croxall; Nathan Cutler; Boyd A. Evans; William Petty; Frederic H. Smith; Eugene J. Schuchart, Secretary; FEDERAL FINANCIAL MANAGEMENT STANDARDS BOARD, 1971.

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 are most affected are not of the urban 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 the children of the poor who are neglected.

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 1968.

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 by 1968 to 22,231. In 1969, however, the number of cases rose to 25,826, and in 1970, increased to 47,363. So far 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 400,000 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 measles 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 amount 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, $75 million in fiscal year 1971, and $90 million in fiscal year 1972. However, appropriations totaled only $2 million in 1971 and $20 million in 1972. Of this $20 million, $16 million has been earmarked for the fight to eradicate venereal disease. Allocation of the remaining $4 million has not yet been determined. At the same time, HEW has released $4.8 million 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 program to control this sometimes very serious childhood disease. I, therefore, call upon the Secretary of Health, Education, and Welfare to release 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.

There being no objection, the items were ordered to 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 to the states.

"Kids in the ghettos are just not getting vaccine," said Dr. Stanley L. Harrison, secretary of the American Academy of Pediatrics and a practicing child doctor in St. Louis for 30 years. "Immunization programs in the inner city have deteriorated."

In response to the outbreak, the government said yesterday it is buying a measles vaccine for the first time since early 1969. It said it would distribute $4.8 million worth to states and communities to immunize about 8 million children, especially those in the inner city.

Cases of specified notifiable diseases

Measles:	
1971	72,782
1970	43,287
Median, 1966–70	43,287

[From Medical World News, Mar. 19, 1971]

EPIDEMICS AHEAD?

MEASLES IS OUT OF CONTROL AND IMMUNIZATION LEVELS LOW IN POLIO AND DIPHTHERIA, EXPERT WARNS

Seven-plus years after the Vaccination Assistance Act started the U.S. on a national program to eradicate polio, diphtheria, rubella and other communicable diseases, the immunization goal may be slipping beyond grasp. Experts who a few years ago were talking confidently of eradication are now pinning their hopes on better control methods—and crossing their fingers at that.

Large segments of the population remain unimmunized, jeopardizing the herd immunity goal. Either 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 of 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 1969, 16,000 were hit by the disease as compared with 7,500 the previous winter. And for the 1970–1971 year, the total may reach 70,000 cases, far above 1969–1970's total of 44,701. In some areas, the rise has been manifold (see pages following page 54 in most MWN editions). Between last October and this January, 11,929 cases turned up—46% over the same period last year and 176% over 1968–1969 figures. Says Dr. Witte: "We're back where we started five years ago. I'm ashamed of the way we've neglected measles."

Since measles encephalitis occurs in about one case per thousand measles cases, and permanent disability occurs in about one out of three encephalitis cases, this epidemic year could see 2,500 children condemned to handicaps ranging from mental retardation—requiring permanent institutional care—to learning disabilities. The failure is not in the vaccine but in delivering it to the needy, says Dr. Witte. Asked Dr. William Schaffner II, assistant professor of medicine at Vanderbilt University, "How good is the vaccine?" Answering his own question, he said, "It's no damn good in the vial."

Turning to diphtheria, Dr. Witte noted that last year's 500 cases are double the 241 reported in 1969 and the highest incidence in the past eight years. There were outbreaks in six states. And, warned Dr. Witte, "unless we improve our preschool vaccination efforts, we can expect epidemics of polio again." He added: "The time for complacency has run out. We must face up to some difficult professional challenges. We need to find the funds to purchase vaccines, the personnel to plan and administer programs, the methods to get at hard-to-reach groups."

The expert noted that DPT vaccine costs 3¢ a dose and every health department should be able to afford the cost. And another warning: "Prior to the diphtheria epidemic in San Antonio, Tex., immunization levels of schoolchildren and preschoolers there didn't differ significantly from national averages from urban areas. What happened in San Antonio could have occurred in a score of other cities."

And polio immunization levels are declining, too. In 1966, 79% of children aged one to four were adequately immunized. Last year, the figure was less than 66%. Dr. Witte is particularly worried about poverty areas of cities. "Some are ripe for a polio epidemic," he declared.

"This 66% figure may represent the national average, but let's not forget that there are pockets of susceptible individuals around the country where levels are much lower."

[From JAMA, May 10, 1971]

MEASLES, A RENEWED CHALLENGE

When Rhazes (860–932 AD), a physician living in the Eastern Caliphate in Persia, distinguished measles from smallpox, he provided the first accurate description of an ancient and widespread infectious disease. A relatively mild disease primarily affecting children in developed countries, it can be serious and devastating in less-well-developed lands and can be the cause of serious epidemics among nonimmune adults in isolated populations. Despite its relative mildness in recent years in countries such as the United States, measles is known to have a number of serious complications such as pneumonia, severe bronchitis, and bronchiolitis; otitis media; and encephalitis, mental retardation, behavior changes, and motor disturbances.[1] Rarer complications include purpura, corneal ulceration, pneumomediastinum, and even appendicitis.

Before the licensure of an attenuated live virus vaccine in 1963, more than 4 million cases of measles are estimated to have occurred annually in the United States of which 400,000 were reported. At the same time, approximately 4,000 estimated cases of measles encephalitis and 400 recorded measles deaths occurred each year.[2] Since the institution of measles vaccination programs, the number of reported cases dropped to 204,136 in 1966 and to 22,231 in 1968. The immunization effort from 1963 through 1968 is estimated to have averted 9.7 million cases of measles and 3,244 cases of mental retardation, and to have saved 973 lives, 555,000 hospital days, 32 million school days, and $423 million.[2] This accomplishment leveled off in 1969 with 25,826 reported cases.[3] However, hopes for the complete eradication of measles were dimmed in 1970 when 47,363 cases were recorded, and the prospect became even worse when the case reports for early 1971 led to estimates of over 65,000 reported cases for the current year.[4] According to the Center for Disease Control in Atlanta, the vaccine cannot be faulted since its efficacy ratio generally exceeds 90 percent. The problem appears principally to consist of the failure of the measles vaccination programs to reach preschool children in poverty areas in the cities and school-age children in many rural areas.[5]

It is interesting to note that a successful measles vaccination program has been accomplished in Gambia, a small West African country of 360,000 persons that is almost completely surrounded by Senegal. Gambia reported only nine cases of measles in 1969 and seven cases in 1970 in contrast to 4,228 in 1967 when mass vaccination activities were begun.[6] The United States, with its

Footnotes at end of article.

formidable array of public health agencies, should be able to do at least as well proportionately. The combined efforts of these public health organizations and local and state medical societies should reach every part of this country with effective and continuing measles vaccination programs that will control, if not eradicate, morbidity and mortality from this ancient disease.

ASHER J. FINKEL, M.D.,
AMA Department of Environmental Public, and Occupational Health, Chicago.

FOOTNOTES

[1] Miller DL: Frequency of complications of measles, 1963. *Brit Med J* 2:75–78, 1964.

[2] Axnick NW, et al: Benefits due to immunization against measles. *Public Health Rep* 84:673–680, 1969.

[3] Reported incidence of notifiable diseases in the United States, 1969. *Morbid Mortal Weekly Rep* 18, annual suppl, Sept 1970.

[4] Surveillance summary: Measles—United States 1969–70. *Morbid Mortal Weekly Rep* 20:33–34, 1971.

[5] Conrad JL: Measles surveillance report, United States, 1970. Read before the Eighth Annual Immunization Conference, Kansas City, Mo, March 2, 1971.

[6] Foege WH: Measles control programs in Africa. Read before the Eighth Annual Immunization Conference, Kansas City, Mo, March 2, 1971.

[From the Wall Street Journal, Feb. 20, 1971]

MEASLES RESURGENCE SPARKS NEW CAMPAIGN TO IMMUNIZE CHILDREN—HEALTH OFFICIALS HAD THOUGHT DISEASE WAS LICKED, BUT IT STRIKES IN POOR NEIGHBORHOODS

(By Jonathan Spivak)

WASHINGTON.—"Measles Is a Thing of the Past, Help Keep It That Way," proclaims a poster in the dingy office of Dr. Michael W. Rosen, a Federal expert in communicable diseases stationed here at the city's Northwest Health Clinic.

But pasted right alongside that proud assertion is a newer poster. In big red letters, it warns: "Regular Measles Is Back. This Could Happen to Your Child—Death, Brain Damage, Blindness, Deafness."

This stark contrast sums up the measles situation throughout much of the country. After several years of dramatic decline, the disease is on the increase, particularly in the big city ghettos and among the rural poor.

To deal with the problem here, the first mass measles immunization effort in two years will be staged tomorrow in seven city clinics. It's hoped that several thousand children will be vaccinated and that the local outbreak, which has afflicted 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 Government's Communicable Discease Center in Atlanta, which keeps an "epidemic stockpile" on hand for just such emergencies. Georgia's state health department is providing another 10,000 doses. The outbreak here has spilled over the Maryland border; in adjoining Prince George's County, mass immunization will also be conducted tomorrow.

A STUBBORN RESURGENCE

Measles, once a nearly universal childhood disease, causes high fever and an annoying red rash, and the complications can be severe, even fatal. (It is not to be confused with German measles, or rubella, a far milder affliction—except to expectant mothers, whose children may be born defective.)

Measles was thought to be on its way out after the introduction of a vaccine in 1963. Reported cases fell from 400,000 in 1962 to a mere 22,000 in 1968, and public health officials boldly predicted imminent eradication.

Now, however, the disease is staging a stubborn resurgence. The incidence is running at twice last year's level, and most major cities, including New York, Cleveland, Chicago and Baltimore, have been hit by epidemics. (With the sharp reduction in its incidence, any large concentration of cases now qualifies 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 city, often Negroes and Latin Americans, who have been missed in past community-wide vaccination campaigns.

Last summer Cleveland had its first measles outbreak in five years, confined to a handful of Latin-American children; now the disease has afflicted large parts of the city's west side ghetto. A measles outbreak started last fall in Chicago with 163 youngsters, and now nearly 1,000 cases, including nine deaths, have been reported, most of them preschoolers.

MONEY IS LACKING

Public Health Service experts estimate that measles immunization has reached well over 80% of American middle- and upper-class children, but under 50% of the poor. Among their explanations: Less awareness in the ghetto of measles' dangerous complications, and immense difficulties in delivering medical care to the poor. Several years ago a similar upsurge of polio occurred in central city poverty areas, after that crippling disease had been almost eradicated.

"The problem is basically we have not learned how to reach the preschool child in the ghetto," worries Dr. Alexander D. Langmuir, director of the epidemiology program at CDC in Atlanta.

The difficulty is heightened because Federal funds to help communities purchase measles vaccine have been exhausted. The money was furnished under the Vaccination Assistance Act of 1962, which expired last year. CDC's epidemic stockpile is far too small to do the job alone, and the center is running low on funds to replenish it. "There's no money for measles at the present time; it's not considered important," Dr. Langmuir complains. "I can't interest anyone."

From 1963 through 1968, 32.5 million doses of measles vaccine were distributed, enough to protect many of the youngsters who had not already acquired natural immunity. But 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 ghetto susceptibles.

The Senate, spurred by Texas Democrat Ralph Yarborough, has passed an extension of the vaccination assistance program, partly to deal with the measles problem. But the Nixon Administration is firmly opposed, arguing that its broader "partnership-for-health" program is capable of covering the cost of measles vaccination. Partnership funds, however, are being focused by local communities on immunization against German measles, which has attracted more intense public concern because of its potential for causing miscarriages and birth defects. CDC officials insist that vaccination against regular measles remains a higher public health priority.

Measles vaccine is a weakened form of the measles virus, producing a mild infection and stimulating the body's natural defenses. It's judged more than 90% effective and is thought to counter lifetime immunity. The product is marketed by Merck & Co., Eli Lily & Co., Dow Chemical Co., Philips Roxane Laboratories and Parke, Davis & Co. Industry sources say the vaccine sells for $1 a dose or less in quantities for mass vaccination and for about $2.25 a single dose to the private physician.

The measles outbreak here in the capital is particularly distressing to health officials because this city claims to have mounted the nation's most thorough immunizing campaign. In recent years, shots were given to 150,000 youngsters in city health clinics, and uncounted more doses were delivered by private physicians and voluntary agencies. It's estimated that more than 90% of school children here are protected.

The first of Washington's current measles cases occurred last August at Junior Village, a city children's home, after the undermanned staff had suspended immunizations for the summer. Apparently, a 17-month-old toddler caught the disease while at a local hospital, and it promptly spread to 23 other children. City health officials moved in rapidly 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 the actual number of cases to date may be two to three times the 300 reported. Significantly, none has been reported in the predominately white middle- and upper-income area west of Rock Creek Park. In Maryland, another 70 cases have been reported, including one death from respiratory complications.

Dr. Rosen and his associates will be happy if 4,000 to 5,000 children turn out tomorrow; the health officials figure that number will be enough to control the epidemic. Indeed, the number of new cases has already begun to drop from a post-Christmas peak of 65 a week.

But controlling the current measles outbreak won't prevent new ones. In the pre-vaccine era, measles epidemics occurred nationwide every two years, and that pattern may be persisting in the city ghettos while the suburbs remain free of the disease.

One preventive step contemplated here is to rearrange 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 smallpox protection is needed. The change could be time-consuming, however, because in this city it will require an act of Congress. Only 15 states now have compulsory measles immunization laws.

Finally, a more thorough follow-up by the health department might assure that all newborn children had received protection. At present a computer system cranks out a notice three months after birth urging the mother to bring the child in for free shots. It's mailed in an envelope like the ones containing Government checks and is accompanied by a plastic-plate reproduction of the child's birth certificate. A stricter followup would include a routine recheck of all births at age 14 months to insure that the children are protected against communicable disease, including measles.

Mr. HARTKE. Mr. President, this crisis raises questions which many of us would like answered. 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 be a subordinate branch of government—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 ruled by Executive order.

There has been too much delay in the fight against measles. While we wait, the

children of the poor suffer. We can take comfort in the fact that most of them will recover, but some will not be so fortunate. They 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 near date for final and complete military withdrawal; to insure a rapid and peaceful return of American Prisoners of War; and to assume and assert its responsibility for determination of future American Foreign policy.

More than 900 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 that this is 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 December 10.

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 efforts to meet the Nation'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 compassionate human 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—a war as unnecessary 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 why and how this war came, 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 8 long 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 Pakistan Army against the people of East Bengal, it would somehow stop that genocide—that by continuing the shipment of American military equipment to the Pakistan army, the army would somehow stop using it to suppress East Bengal. But surely there is no more specious 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. Over 7 million refugees found it necessary to flee to India in order to escape the bloody terror of repression—some 45,000 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 sought to normalize the situation in East Bengal by forming a puppet 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 minimal shelter, food and medicine to a hopeless people dying by the thousands under the monsoon rains. As India strained under the refugee burden—a cost which has totalled more than all the funds it has received in 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 about the conflict 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 crisis—a silence and a lethargy made clear to me during hearings on June 28 of the Subcommittee on Refugees, for which I serve as 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 secretly trying to get at 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

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? Certainly not toward a peaceful resolution of the conflict raging in East Bengal—a conflict that was then already 4 months old. Rather he had headed toward Peking and more substantive negotiations unrelated to the refugee tragedy which he refused to see first hand in South Asia.

Mr. President, as I said in this Chamber just 3 days ago, this administration has rightly taken pride in its efforts to reestablish contact with one-fifth of mankind's population in China. But are we at the same time—by neglect, 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 rush to place a new priority on 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 very beginning of the crisis—during the days immediately following the bloody night of March 25, and after our Government knew of the situation from secret cables sent from Dacca by our Consul General—the Department of State refused to be candid, publicly or otherwise, even in announcing the emergency evacuation of American personnel and dependents. Instead of calling it an evacuation—which 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 Bengal, 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 said 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 should be so silent—both privately 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 protest actions that involve the widespread and indiscriminate shootings of civilians, particularly when American arms are being used. More importantly, we should do what we can to encourage an end to the violence, directly or through others. We should actively support and contribute to a relief program to help meet 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 American arms in our relations with the Yahya regime. These facts, Mr. President, are well documented in the hearings of the Subcommittee on Refugees and are outlined in my November 1 report to the subcommittee. 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 now 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 over the 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 evolution in East Pakistan which the United States was promoting." What is too rapid in a crisis that has festered 8 long months—where in refugee camps children are dying at the rate of 4,300 each day, and countless thousands more go without food or shelter. Perhaps if Americans were faced with starving and wounded refugees pouring over our borders at the rate of 45,000 each day, we, too, might then move rapidly.

Although the resort to armed force to settle international disputes can never, of course, be condoned, we cannot but be dismayed that the situation in 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 the night of March 25. But to now assign "blame," in the way that this administration has, is not only counterproductive, but dishonest.

The rationalizations stated this week by White House spokesmen leave several erroneous 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.

Well, the facts are now 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 was something less than concrete. 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 intransigency reported this week by the distinguished senior Senator from Ohio, who recently returned from a visit to both India and Pakistan. In reporting on 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. He told me he was willing to do this and he seemed very sincere. But 10 hours later, Pakistani planes bombed six military airfields inside India and this, in turn, triggered a land invasion by India.
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> Yahya Khan lied to me. He had planned that bombing mission at the time he talked 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 call upon the Indian Foreign Minister in New Delhi to warn India that American sources predicted that Pakistan planned to escalate tensions along the western borders of India if the Bengali guerrillas, the Mukti Bahini, intensified their activities along the eastern borders in East Bengal. Indian leaders were officially warned that such an escalation, even if undertaken by Pakistan, 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 direct negotiations involving Sheikh Mujib was reportedly offered—just a warning that if India did not curtail its support of the Bengali guerrillas then war would be inevitable—or so predicted American 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 the past 8 months, the specter of human deprivation and violence has engulfed South Asia. It is now a late stage in the crisis, but the opportunity still exists, I believe, for our Government and 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 diplomacy—so it is not a question whether we should become involved, but how we should use our present involvement.

As Prime Minister Indira Gandhi wrote in a letter to our Government just a few weeks ago:

> I hope that the vast prestige of the United States and its wisdom . . . will be used to find a political solution acceptable to the elected representatives of East Bengal and their leader Sheikh Mujibur Rahman. On my part I shall make every effort to urge patience on our people. However, 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 under the leadership of Sheikh Mujib. The purpose of the Indo-Pakistan talks would be to restore the 1965 cease-fire along the western borders, while the Islamabad-Bengali 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 must turn its policy around—to begin to consider the source of the violence, not just the manifestations of it—and move on a political settlement in East Bengal.

Mr. President, I ask unanimous consent that excerpts from my report to the Subcommittee on Refugees, as well as other recent articles, be printed in the RECORD.

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

U.S. POLICY TOWARD THE CRISIS

Throughout the past several months our government has consistently sought to minimize the seriousness of the situation in East Bengal and South Asia. Our government down-played the threat of food shortages and famine in East Bengal, and understated the role of American arms in our relations with the Yahya regime. On the question of famine, our government as early as June 21 had official reports from the field—not to mention earlier information from international agencies—predicting serious food shortages in some areas of East Bengal. Cables from the American Consul in Dacca, one of the few official sources of information about human conditions inside East Bengal, were warning the State Department in Washington that the threat of outright famine was great. One such confidential cable on July 6 reads as follows:

"Specter of famine hangs over East Pakistan and prospects for averting widespread hunger, suffering, and perhaps starvation not, repeat, not good. Government of East Pakistan officials largely enervated by fear of military. United Nations moving far too slowly. . . .

"In official circles in Pakistan famine is a forbidden word. The line being taken by the Government of Pakistan and the Government of East Pakistan is that stocks are adequate and no major food problems are in sight. Nonetheless, it is our view that famine conditions . . . will probably prevail in much of East Pakistan over the coming year. Moreover, because of line the Government of Pakistan and the Government of East Pakistan are taking, prospects for averting famine conditions not, repeat, not good."

When Press queries about famine were made in mid-July, State Department spokesmen seemingly went out of their way to protect the sensibilities of the Pakistani government by consciously understating the potential for famine in East Bengal. This neglect of field reports prompted the American Embassy in Islamabad to file this cable of protest on July 15:

"We are concerned . . . that Department stating publicly that there is no evidence in field reports which would bear out predictions of coming famine in East Pakistan. Perhaps spokesman not apprised of most recent field reports which indicate famine real possibility.

"In our view, public statements inconsistent with this line likely impair effectiveness of our representations here. . . . Further public statements . . . should reflect recent field reporting."

It was not until July 22, in response to questions from members of the Subcommittee, that Department of State officials publicly recognized the situation. We can only speculate 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 seriousness of the problem was to reduce the urgency of our response and to defer needlessly those substantive international efforts that were needed to save human life.

Although in the early days of the East Bengal crisis it looked as though our government's policy 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 20, the State Department announced an end to the shipment of further American arms to Pakistan. In a letter to the Chairman on that date, the Department stated explicitly:

". . . we have a modest program of cash and credit sales to Pakistan of non-lethal military end-items as well as some spare parts and ammunition. We have been informed by the Department of Defense that none of these items has been provided to the Pakistan Government or its agents since the outbreak of fighting in East Pakistan March 25–26, and nothing is presently scheduled for such delivery."

Yet on May 8, the Pakistani ship Sunderbans left New York harbor for Karachi, Pakistan, laden with American military supplies. Neither the press nor the Congress knew of its departure. Its sailing said a great deal about the course and purpose 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 assumed. "Delivery" in the Department of Defense means, they say, the transfer of title, which occurs long before actual shipment. Once military goods have been "delivered", the shipper must obtain a license from the Department of State's Office of Munitions Control before actual shipment. All this can take up to a year.

But such ornate descriptions of the military aid process, or apologetic claims of "bureaucratic 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-level review of the arms policy toward Pakistan, Deputy Assistant Secretary of State Christopher Van Hollen admitted "that there may be certain items moving in the future based upon items turned over by the Department of Defense prior to April, or on commercial licenses that are still out-standing." In other words, the Administration determined not to embargo the $27.4 million worth of arms still in the pipeline as of March 25. Such an embargo could have been effected with just a few phone calls.

Under current policy, therefore, military supplies have been flowing to Pakistan—not in the quantities that might have been shipped if new licenses were granted, but in sufficient quantities to help the Pakistani army in its suppression and to carry enormous symbolic weight.

The State Department, as outlined in Mr. Van Hollen'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 can only be resolved by the Pakistanis." The implication is, of course, that our government can somehow maintain a hands-off posture towards Pakistan while still sending military supplies to its military government. But surely this is a contorted argument. For the cold fact is that our government is already involved—with guns and money, with more than a decade of economic and military assistance. American aircraft and tanks have been reported in action, even by U.S. officials. So the question is how America should be involved; whether our government should continue supplying 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 policy as long as there is a single party in the world who will fill the void if we abstain. It relies not on the positive merits of a program, but on the fact that other nations might be willing to do what we should not be willing to do. The fact is that in Pakistan arms are already being imported in great volume from China and elsewhere, and our supplies are only a small portion of current Pakistani military imports. So why not cut our symbolic ties?

The State Department replied rather obliquely that the third reason for continued military sales is that it would be seen as a symbolic sanction if we imposed an embargo. As Mr. Van Hollen testified, "Such sanctions . . . would undermine our efforts to maintain a productive political relationship with the Government of Pakistan, 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 token "mutual interest" in such matters as humanitarian relief and political accommodation or settlement.

As the Administration has put the rationale subsequently, military aid is required to maintain our "leverage" over the Pakistani government in order to push for a cessation of the killing and political repression. But surely there is no more specious an argument than this, which says the establishment 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 demonstration of humanity on the part of Pakistan, than to mindlessly continue the arms flow in the hope of some day achieving that leverage. As it is we are bargaining against ourselves.

Although it was clear from testimony before the Subcommittee that our government's continued military aid to Pakistan flows directly from Administration policy, many observers still believe it is a product of bureaucratic inertia. It would seem so from a General Accounting Office (GAO) investigation, which recently uncovered some $10,000,000 worth of "offer and acceptance" contracts, in which the U.S. took the initiative in offering Pakistan military equipment, such as parts for fighter aircraft, like the F–104. Needless to say, Pakistan accepted the offers, and at least one contract was "validated and approved for implementation" in July, long after authorizations for new arms shipments had been declared forbidden. As indicated in

Mr. Van Hollen's testimony before the Subcommittee on October 4, the State Department, while surprised at the existence of the contracts, has taken the position that the goods could not be shipped without licenses, which would not be granted under existing policy. Accordingly, the contracts were called mere contingency items in case policy changes in the future. Whatever the facts are—which the GAO is seeking to clarify during its current investigation—there is considerable evidence that the State Department's control over what sails for Pakistan is woefully deficient and sadly confusing.

Nothing has come to symbolize more the intransigency of American policy of supporting Islamabad, than the shipments of military supplies. And nothing has come to symbolize more the bankruptcy of this policy—carried out in the name of "leverage"—than the simple fact that the repression of East Bengal and the flow of refugees into India continues.

F. RESPONSE OF THE UNITED NATIONS

At least three separate, but inter-related, United Nations efforts have been implemented or proposed to deal with the crisis of people in South Asia. The first, on the Indian side of the border, is the operation of the United Nations High Commissioner for Refugees (UNHCR). As noted earlier, since very early in the crisis, and at the invitation of the Indian Government, the High Commissioner has served as the "focal point" for the international relief effort in behalf of East Bengali refugees in India.

The second U.N. effort is on the Pakistan side of the border in East Bengal, where a U.N. Relief Mission, headed by a special representative of the Secretary-General, is attempting to implement a relief program. The Mission's principal aim is the movement and distribution of food supplies, mainly in rural areas, in order to avoid food shortages and famine.

To facilitate the movement of food upcountry from the ports of Chittagong and Chalna, the U.N. Relief Mission is obtaining, with U.S. assistance, some 26 vessels. In testimony before the Subcommittee on October 4, Maurice J. Williams, Deputy Administrator of A.I.D. and U.S. Coordinator for Relief Assistance to East Pakistan, said these vessels, if effectively used, can move over 100,000 tons of food per month. To insure that the boats and other materiel are not confiscated or attacked, Mr. Williams testified that "'U.N. Relief' is being boldly marked on the boats, trucks and warehouses which carry or store food or other relief. There can be no mixed cargos, lest someone think 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 insist on these rules. We insist on them. Only by clear-cut separation can food and other relief be kept above the battle." In response to the Chairman's questions, Mr. Williams testified further that a measure of assurance had come from those involved in the battle—the Pakistan army and the Mukti Bahini—that they would respect the purpose and integrity of the U.N. program.

An effective U.N. relief effort in East Bengal, however, remains more a hope and an aspiration than anything else. From the outset, the U.N. program has been extremely deliberate and slow. Perhaps, under the circumstances, that is all it could be. But the fact remains that, despite personnel in Dacca and good intentions toward the people in need and optimistic rhetoric in many quarters, no truly effective operational program exists. A mid-October field report to the Subcommittee makes these comments:

> The main [relief] effort will have to be through the U.N. and the [Pakistan] government's food distribution. The contribution of the U.N. is that they are seeing to the distribution of food to the major inland ports. From the big ports of Chittagong and Chalna, the U.S. aid program has chartered vessels to bring rice and wheat up to the big river ports—and from there it gets to be distributed by the normal government distribution channels. The Army will not have anything to do with the food distribution—that is part of the agreement with the U.N. . . . The U.N. is only acting in a supervisory and advisory capacity. For example, they have a transportation expert here who is to give advice on the movement of food grains in large quantities. They are bringing in 1,000 trucks to aid in the distribution by road—but they will not actually be doing the distribution. All the distribution of relief supplies is to be done only by the government channels. The normal food distribution system is through fixed price shops or 'ration shops'. The people have to get a ration card and then they are able to buy the food at a fixed price . . . this is difficult for people in villages, because the ration shops are only found in the larger towns—people may live as much as 20 or more miles from a ration shop, and not be able to get their food from that source. Moreover, they need money to buy the food. In addition to this, there is supposed to be some emergency distribution of food grains by the government and the government itself will determine where there is an emergency area. So really, the food distribution will be done only with the efficiency that the government puts into it . . . and [they] are ill-equipped for carrying it out. In addition, there is the obstacle of the activities of the Freedom Fighters (and many villages are under the complete control of these Freedom Fighters), who have expressed an animosity toward the U.N. operation, since the U.N. did nothing for East Pakistan at 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 Pakistan government, they came in. So the Freedom Fighters are, in general, opposed to the U.N. activities here. They say that they will allow the food distribution to take place, provided that the Army has nothing to do with it.
>
> Quite clearly, the U.N. effort is having many problems in getting off the ground. These problems not only involve the sheer intricacies of organizing a relief effort on paper—but, more importantly, these problems involve the chaotic conditions, especially in transportation and government services, produced by the Pakistan army's repression, and the exploitive pressures from all sides in the resulting conflict between the army and its Bengali opposition. Judged by the Pakistan army's performance since the U.N. Relief Mission came into East Bengal, it seems clear that the Yahya regime is more interested in maximizing the political advantage the U.N. presence affords, than in taking care of the millions in need. As of November 1, at least, the army and its civilian front had sharply curtailed the dispersal and use of U.N. personnel in the limited relief effort and food distribution that was taking place. They were also withholding needed food stocks from relief posts being actively manned by voluntary agency personnel. They were moreover—according to some sources—confiscating relief supplies and logistic support for themselves, or for use in certain areas to gain the complicity and cooperation of hungry and hopeless people. Pressures against the U.N. Relief Mission were also increasing from the deteriorating security conditions resulting from the growing conflict between the Army and the Mukti Bahini. Most observers agree, however, that, with one or two exceptions, freedom fighters have not been making a special target of U.N. food shipments and distribution centers. In fact, as of November 1, some observers believed that the Mukti Bahini leadership had made a conscious policy decision not to interfere with the U.N. effort—to the extent this effort was being carried out. Further complicating the situation is the simple fact that substantial portions of East Bengal are no longer under army control. Any U.N. relief program in these areas will presumably be subject to new arrangements between the U.N. Relief Mission and Bangladesh leaders.
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> However, the situation is described, one thing is clear: with the absence of an early political settlement between Islamabad and its Bengali opposition—or a decisive military victory by either side—there seems to be little cause for optimism about the plight of the people remaining in East Bengal and the effective functioning of the United Nations Relief Mission.

[From the Washington Post, Dec. 8, 1971]

REAL HELP FOR PAKISTAN

Within the confines of its open and full political support for Pakistan, what constructive steps might the Nixon administration take to actually help Pakistan and ease the crisis in South Asia? We say "actually" help because so far Mr. Nixon's support has merely made it easier for the government in Islamabad to get into terrible trouble: in the East its sway is shrinking and in the West it is under siege from what seems superior Indian force. Whether Yahya Khan would have gotten Pakistan into this fix without American support is a fair question.

But what can the U.S. do now? Any answer must start here with the assumption that the Nixon administration, by its faithfulness to Islamabad especially in the latest stage of its travail, should have earned much influence. If in earlier stages American influence was not wisely applied or heeded, whichever obtains, it is not too late to try to recoup. In public statements and United Nations resolutions, Mr. Nixon may wish to stay in a tough anti-India posture, but it should be possible at the same time to help Pakistan. On his part, President Yahya can hardly remain impervious much longer to a friend's good advice: he has all but lost half his country and the other half is far from completely secure.

Though doubtless directed first of all at Americans, Mr. Nixon's pledge not to get "physically involved in any way" in the war surely was an important contribution to President Yahya's political education. Mr. Nixon should now go on to say that Pakistan's cause in the East is lost, that the beleaguered Pakistani garrison there cannot possibly endure, that Islamabad should use the Indian invasion as a facesaver to avoid the humiliation of defeat at the hands of Bengali insurgents, and that Pakistani soldiers should surrender to the Indians while they can rather than face slaughter by vengeful Bengalis.

Mr. Nixon could also tell President Yahya that, just conceivably, if he produced the Bengali leader Sheikh Mujibur Rahman, he could win back much world favor. More important, the political authority to be set up in former East Pakistan would be friendlier to Islamabad than if other Bengalis take over. This is so because probably only Sheikh Mujib has the stature to be more than an Indian puppet.

If Pakistan heeded this advice, then Mr. Nixon would be in a better position at the Security Council to work for a cease-fire resolution that would at once prevent the further spilling of Pakistani blood and ensure that Pakistan would not suffer territorial losses in the West. For it is plain

enough that Moscow would not veto a resolution which acknowledged a Bengali political authority as well as called for a cease-fire. The divisions which have reduced the United Nations to impotence in the past week would be removed. This approach would not give Pakistan the grim emotional satisfaction it received from the American resolution that failed, but it would be a real political boon all the same. Incidentally, it would allow President Nixon to appear before the world as an effective peacemaker.

We continue to have serious reservations about Mr. Nixon's pro-Pakistan policy. But if he is determined to pursue it, let him do so in a way that is more likely to help Pakistan and the cause of Asian peace.

[From the New York Times, Dec. 9, 1971]

MR. NIXON AND SOUTH ASIA

(By John P. Lewis)

PRINCETON, 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 pious inanities, plunged over the brink this last weekend. Presumably for the time being the policy is beyond redemption. What now selfishly concerns me as an American is that India's leaders may exaggerate the degree to which the Administration's present aberrations represent 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 most massive calculated savagery that has been visited on a civil population in recent times. He has been faithful to his good friend, the chairman of the savagery, Yahya Khan. Neither his hand-holding of nor 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 continued to trickle arms to Pakistan like so much gasoline onto smouldering Indian passions. The President has been fully aware both of the explosive domestic political risks the refugees posed in Indian Bengal and of the way they have totally derailed the cause of Indian development at its very moment of greatest opportunity. Yet he has not begun to exercise the leadership, either before the Congress or in the international community, needed to accomplish a quick and adequate sharing of refugee costs.

Such is the footing from which Mr. Nixon, first via his nameless State Department mouthpiece last Saturday, now from the White House itself, has branded India an aggressor. It is on this record that he has turned off, not just fresh economic assistance (which he had, in any event, been blocking since early in the fiscal year) but the unobligated portions of loans already committee. This last is extraordinarily tough action in terms of past aid practice, and one—lacking any prospect of cramping India's military capability—that can have only punitive intent.

Historians are bound to boggle at the cumulative ineptitude of this performance. In one series of strokes we have managed to align ourselves with the wrong side of about as big and simple a moral issue as the world has seen lately; we have sided with a minor military dictatorship against the world's second largest nation which happens also to be the stanchest of all developing countries in its adherence to our own deepest political values; we have joined the sure-fire loser in a subcontinental confrontation; and we have depleted a once abundant, durable fund of Indo-American goodwill at a sickening rate.

It certainly would be wrong to claim to our Indian friends that, in all this, the President is swimming against a tide of public opinion. There is little American tide of opinion of any kind about the subcontinent, and its surface flow is considerably influenced by what any President does and says. Moreover, many of our best editorial writers and columnists have such an absolute abhorrence of war—especially when escalated by others—whatever the provocation and whatever the closure of other options, that they cannot, just now, see much beyond the proximate causes of the Bengal border crossings.

I would like to emphasize one point that tends to be skirted, because no one wants to be caught these days suggesting that any good—even relative good, weighed against the alternative—can come of a war. The point, and it is pivotal, is that the only possible basis for a stable, peaceful East Bengal to which a large portion of the ten million refugees can return and help rebuild their nation is an independent East Bengal. Such is the effect of the program of terror since March 25; the scenario cannot be wound backwards. Hence (1) the premise of undivided Pakistan's sovereign integrity upon which American policy has rested, for at least five months, has been a nonstarter, and (2) India's support of the insurgency by the previously elected Bangla Desh regime has not been merely human and understandable; lacking alternatives, it has been the only constructive policy available.

I myself wish the Indians had escalated less, accepted a longer time frame, and kept their support less overt. But if there is any group which, have contributed most to the frustration of restraint, has least cause to fault her ensuing impatience, it is the Nixon Administration. It remains now for India to demonstrate that herd objectives are those, and only those, she held out; namely, establishment of a genuinely independent East Bengal to which the refugees can return. There is a heavy obligation on Indian leaders to make sure that war fervor does not spill over into more self-serving ventures, either to the east or to the west. Meanwhile, as this demonstration is being rendered, there is an obligation on Washington to keep quiet.

[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 achieving New Delhi's major objectives in East Pakistan. These are the defeat of West Pakistani military repression in the disaffected Bengali province and the creation of conditions that will facilitate the speedy repatriation of nearly ten million refugees—Moslem and Hindu—to an independent, friendly and secular "Bangla Desh."

These would represent large short-term gains for the Indians, whose fragile internal stability has been gravely threatened by recent events in East Pakistan. The dismemberment of Pakistan would all but eliminate the menace of a militant Moslem neighbor, which would be reduced to less than half of its original size.

But India will have paid a heavy price for these achievements, even if the wider war with Pakistan is speedily ended without further serious loss of Indian territory in the West.

New Delhi's resort to force without first exhaustiing all possibilities for a peaceful resolution of the conflict—especially the cold rejection of U.N. Secretary General Thant's reasonable mediation offer—has shocked many of India's staunchest friends and alienated important segments of world opinion. India's violation of the United Nations Charter and defiance of the General Assembly has sharply diminished India's once proud moral standing.

India's support for full Bengali independence may have been made inescapable by the incredibly short-sighted and brutal policies of the Pakistani Government. But no one—especially the Indians—can ignore the new dangers and problems that will be posed by the emergence of Bangla Desh.

The success of secession in East Bengal could touch off a chain reaction of separatist demands throughout the subcontinent, in India as well as Pakistan. Desperately poor and heavily overpopulated—the present population of 75 million is expected to double in twenty years—Bangla Desh is likely to become a breeding ground for domestic unrest and a lightning rod for foreign meddling. It could become a magnet for the Bengalis of India and a destructive influence on the delicate structure of Indian unity.

To avert further impoverishment, fragmentation and conflict throughout the subcontinent it is essential that leaders in Delhi, Dacca and Islamabad thrust aside present divisions and acrimony and join in a search for new ties and institutions that will enable them to attack overriding common problems in dignity and peace. As the emerging dominant power, India has a special responsibility to assert the moral leadership for reconciliation that has been so sadly lacking in the present conflict.

[From the Newport Times, Oct. 9, 1971]

JUDGING INDIA

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—and in speech as well as in deed. I am sufficiently on record in my opposition to appeal to military force, whether by India or anyone else (I even opposed its use against Portugal in Goa).

But the history of this conflict did not begin when the Indian Army moved against East Bengal or (for that matter) when Pakistan bombed the Indian airfields last Saturday. It began last spring when the Awami League and the movement for autonomy it represented (and which had the overwhelming support of the people of East Bengal) were brutally crushed by the Pakistan military forces and when in consequence ten million people left their homes to find safety and temporary shelter in India.

To single out the Indians for special blame in a conflict that so began and so continued is outrageous. There has been much talk of late about avoiding the role of world policeman. Let the Administration also avoid the role of judge and juror, especially if its judgments are to be as here. [Editorial Dec. 8.]

JOHN KENNETH GALBRAITH,
Cambridge, Mass.

CLEAR-CUTTING IN THE NATIONAL FORESTS

Mr. McGEE. Mr. President, this month's Reader's Digest contains an article entitled "The Crisis of Our National Forests," written by James N. Miller.

Mr. Miller has done an excellent job of pointing up the vital necessity of developing new and much more farsighted policies in the management of one of our greatest national resources—the timber stands on our public lands.

Mr. Miller tells us of the devastating consequences of clear-cutting in numerous national forests due to poor management practices. He points out how this devastation was carried out with little or no consideration given to the possible consequences of poor management practices.

And, finally, Mr. Miller builds an ex-

cellent case for the setting up of an independent, interdisciplinary commission to study timber harvest methods on our public lands—something I have called for in vain for the past 4 years.

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:

THE CRISIS OF OUR NATIONAL FORESTS

(By James Nathan Miller)

The bitter fight between the lumber industry and the conservationists is a matter of concern to all Americans. If we are to save the finest piece of public land the nation owns, we urgently need to formulate new and farsighted policies.

As we drove over the heavily forested ridge and caught sight of the landscape ahead, my first impression was that somebody had been strip mining in the forest. All around us, covering a square mile of mountainside, was nothing but bare brown earth. Where a few months before had been a virgin forest, not a tree was now standing.

"Look over there," said Guy Brandborg, my guide. He pointed to other slopes a mile, three miles, five miles away. All bore the same huge scars. The area looked like a battlefield.

It *is* a battlefield. The Bitterroot National Forest in western Montana is the focus of perhaps the most significant struggle of today's conservation movement. For what I saw here was done by logging companies working under the supervision of the U.S. Forest Service (USFS), the guardian of our 183 million acres of national forest. As a result, the USFS—Smokey the Bear's people, the outfit that practically coined the word "conservation"—is being shaken to its roots by the charge that it is just another bureaucracy that has become the captive of the industry it is supposed to oversee, and in the process is presiding over the despoliation of our woodlands.

Is it? To see what is involved, start with the man who got the whole fight going, the old-time forest ranger who for 20 years was supervisor of the Bitterroot National Forest: my guide in the mountains, Guy Brandborg.

FORESTRY GONE MAD

In 1955, when Brandborg reached 62, he retired from the Service and settled down with his wife, Ruth, in the lovely Bitterroot valley. There, in the early 1960s, he began to see things in his old forest that made him uneasy. Two USFS practices in particular bothered him. "They set their allowable cut too high," he says. "And the way they were clear-cutting was pure murder."

Allowable cut? Clear-cutting? To understand these vital terms, take a quick look at the main law that governs the Service, the Multiple Use-Sustained Yield Act of 1960. "Multiple use" specifies two economic goods and three services that the USFS, in its management of our forests, must make available to the nation: timber from the trees, forage from the grazing lands, recreation, wildlife management, and the protection of our rivers' pure and constant flow through the sucking-in and leaking-out action of the forests' great sponge of roots and foliage. "Sustained yield" means, very simply, forever: the Service has to manage the forests so that we will never run out of the five benefits.

Brandborg's charge against the Bitterroot managers was the gravest possible one: They were violating both major provisions of the law that governed them. First, they had set their "allowable cut" so high that it let the valley's lumber mills cut more timber than the forest could re-grow. Second, the *way* they were allowing the loggers to cut favored timber production at the expense of the other uses. "It's forestry gone mad," said Brandborg. "A clear-cut[1] should be maybe 30 or 40 acres at most. Some of the cuts on the Bitterroot approach a thousand acres. They're wiping out animal habitats. They're scraping logging roads out of steep slopes where the gashes in the soil pour mud in the streams. They're destroying some of the forest's most beautiful trails and campsites. They're no longer a multiple-use agency, they're sawlog foresters."

BOMBSHELL

For a long time, Brandborg's complaints were ignored. But as the clear-cutting continued, other people started to get uneasy. Hunters and campers going back into the woods discovered that favorite glens and trails had been leveled in their absence. Ranchers noticed that the rivers coming out of the mountains were running exceptionally high in the spring, before the water was needed for irrigation. And everyone could see what the spreading cancerous scars on the hillsides were doing to the valley's beauty.

And so, in early 1969, the pot suddenly came to a boil. A local group wrote to the Forest Service demanding an investigation. A slashing series of articles on Bitterroot logging appeared in the daily *Missoulian*. In Washington, Montana's Sen. Lee Metcalf suddenly found himself swamped by hundreds of protesting letters. The result was *two* investigations: one an "in-house" inquiry by the Forest Service itself; the other, undertaken at Senator Metcalf's request, by a seven-man University of Montana faculty group that became known as the Bolle Committee, after its chairman, Prof. Arnold Bolle, dean of the university's school of forestry.

Last year, when the two committees' reports were published, they hit the U.S. forestry profession like a bombshell. Both confirmed Brandborg's first charge. The Bolle Committee: "Multiple-use management, in fact, does not exist as the governing principle on the Bitterroot. The overriding concern is for sawtimber production." The Forest Service: "There is an implicit attitude among many people on the staff of the Bitterroot National Forest that production goals come first and that land-management considerations take second place." The Bolle report also backed Brandborg's second charge: "We doubt that the Bitterroot can continue to produce timber at the present harvest level."

The forestry world was stunned. "Almost unbelievable," said an editorial in *American Forests*, the magazine of the prestigious American Forestry Association. "The ramifications are nationwide and will shake forestry to its foundations." Since then, logging interests have tried to get Professor Bolle fired, and the president of the Society of American Foresters has bitterly attacked his report as politically inspired. Clear-cutting has recently been the subject of a Congressional investigation, a bill has been introduced to put a two-year moratorium on the practice, and some conservationists have called for the firing of the entire USFS top management.

LIKE SAP THROUGH A TREE

All of which raises a basic question: Does the Service deserve all the abuse it's taking? The Bitterroot is only one of 154 national forests. Is it a fair sample?

"No," says Chief Forester Edward Cliff. "Any organization trying to manage as much land as we manage is bound to make some honest mistakes. Generally, however, the job the Service is doing is good and sound."

Perhaps. Nevertheless, there is strong evidence that the sawlog fixation that was exposed on the Bitterroot runs through the Service like sap through a tree:

"The emphasis on production is not unique to the Bitterroot," said the Service's own in-house report. "It is the result of subtle pressures and attitudes from above." "When our report came out," one of its authors told me, "forest supervisors all over the West said it described exactly what was happening in their forests."

The same reaction greeted the Bolle report. Of the more than 500 letters the committee received from Service personnel, rangers and forestry professors throughout the United States, four out of five confirmed its findings.

Since the Bitterroot uproar, there have been two other official investigations: an in-house investigation of four forests in Wyoming; a survey by a West Virginia legislative commission of clear-cutting in the Monongahela National Forest. Both found the same practices that existed on the Bitterroot.

In one respect, the evidence indicates that the Bitterroot may actually be *better* managed than other forests. Logging roads have caused some erosion there, but the USFS investigation found that it was not yet serious. Elsewhere it is calamitous. In Idaho's Payette and Boise national forests, rocks and mud pouring down from the logged-over areas—over 100,000 tons of the stuff annually, five times the natural erosion rate—have virtually wiped out the great salmon and steelhead spawning grounds of the South Fork of the Salmon River. In Wyoming, the Service's own report on its management of four forests is illustrated with pictures of logging roads that caused whole hillsides to fall into stream beds. In the Northwest, according to a 1970 report by the Federal Water Pollution Control Administration, "improper, low-cost logging operations" are as serious a cause of river pollution as pulp mills and municipal sewage plants. All this despite the fact that the USFS is specifically charged with *protecting* our watersheds.

PRODUCE OR ELSE

What, then, has come over the Forest Service? The answer is simple. Like many other regulatory and resource-management bureaucracies, over the years it has come to adopt the basic goals and philosophy of the industry it was supposed to police. The process went like this:

For almost half a century after the Forest Service was founded, in 1905, very little lumber production was required of it; over 95 percent of the U.S. supply came from privately owned forests. The Service regarded itself as the protector, not the exploiter, of the land. Then, suddenly, two things happened. In the 1940s, the lumber industry, having logged its way from New England to the Pacific Ocean, began to run short of its own trees. At almost the same time, along came World War II, with a huge demand for lumber—followed by a building boom unprecedented in our history.

"Almost overnight the price of Douglas fir on the stump went from $5 to $25," says Dave Burwell, forester for the Rosboro Lumber Company in Oregon. "And almost as quickly the Forest Service changed from a custodial agency to a production agency." Indeed, the message the Service got from Washington could not have been clearer: "More logging roads; more logging areas; produce or else." In 1940 there were 87,000 miles of roads in the national forests; by 1960 there were 160,000 miles. And as the roads snaked out, annual timber sales by the USFS soared: from 1.5 billion board feet in 1941 to 4.4 billion in 1951, to 8.3 billion in 1961—to 11.5 billion last year, 30 percent of total U.S. production.

In all of this it is essential to appreciate one fact: The agreement that developed between the Service and the industry was not, as many conservationists insist, a conspiracy.

[1] The cutting down of every tree of every age in a given section of forest, as opposed to the selection-cut method in which only a few of the mature trees are cut down.

It was founded on a sincere belief that what they were doing was genuinely in the national interest. America needed lumber. It wasn't until the late 1960s, when we all suddenly discovered the glories of ecological virginity, that we started yelling rape.

What, then, to do about the situation? Of the many suggestions that have been flying through the air since the Bitterroot exploded, three in particular show promise of real reform:

Revive the land ethic. The Multiple Use Act gives the Service full authority to return to its old idea that the requirements of the land and the people as a whole—not the pressure of individual users—should be paramount. And in fact there are important signs that the Service has begun to do just this. Its two "in-house" investigations have shown it capable of real selfcriticism. Early this year, Chief Forester Cliff in effect admitted a long list of malpractices—bad road building, clear-cutting where there was no assurance of re-growth, erosion-causing logging techniques, etc.—by promising to stop them. Conservationists, however, fear that the present uproar will die down before there is real reform; in other words, public pressure must not let up.

Put the money where the need is. On only one point do all sides to the controversy agree. Through a grossly unbalanced funding system, Congress has allowed the forests to fall far behind their long-term timber-production potential. From 1963 to 1970, while it gave the Service 95 percent of the funds it requested for *selling* logs, Congress provided only 40 percent of what the Service said it needed for *growing them back.*

As a result, Cliff says, a huge 18 million acres of productive land—in terms of sawtimber, the equivalent of about 30 national forests—are either bare of trees or are producing timber at half their potential rate. Cliff estimates that he could increase production by about 60 percent if he were given adequate funds.

Plan ahead sensibly. Today our forests are at a watershed in their history. The Nixon Administration and the lumber industry say that, to provide lumber to end the U.S. housing shortage, we must soon start cutting a huge 60 percent more trees than we're now cutting. This means building logging roads into what conservationists call the "de facto wilderness"—acres of virgin timber that, under the 1964 Wilderness Act, are eligible for wilderness classification (no roads or logging allowed) but have not yet been so classified.

Conservationists reply that, if we manage our public and private forests properly, we'll have plenty of lumber without cutting the virgin stands. The threatened shortage is hokum—a "scare tactic," says the Bolle Committee, to provide an excuse for grabbing virgin areas before they can be set aside. Conservationists add that if the industry's heart is really breaking over the housing plight of the poor it should stop exporting lumber to Japan at premium prices. (In 1970, the state of Washington alone exported 1.7 billion board feet of timber.)

The argument goes on *ad infinitum.* Before making irrevocable commitments, it would be wise to look hard at two basic questions: How urgent actually *is* the need for more timber from the national forests? How much more can we get with proper harvesting methods? Last September, President Nixon appointed a five-man panel to explore these questions. It is fervently to be hoped that its report, due next July, will belie the charge made by some conservationists that the panel has a pro-industry bias. For the forests that are being fought over are the finest piece of public land we own—286,000 square miles of them, some 13 times the size of the national parks, seven percent bigger than Texas.

With the literally never-ending supply of products and enjoyment our forests can give us if properly managed, they represent, probably more than any other national resource, our economic and spiritual future. The battle of the Bitterroot shows that we have not been managing them in the best way. It's high time we started.

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 fortunate enough 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 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 narrative report briefly outlining 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 Forrister, the executive director of the Wyoming Council.

Mr. President, I ask unanimous consent that the excellent report by Mrs. Forrister 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

With the $75,377.00 matching fund grant to the Wyoming Council on the Arts from the National Endowment for the Arts for fiscal year 1971, a total of 43 projects were undertaken; 41 through sub-grantees and two by the Council itself. The matching funds for these projects came entirely from local sources, for state legislative funding was not available until the beginning of fiscal '72 for any operation of the Council.

Dollar amounts of the matching funds totaled $161,332.97, or nearly $2.50 for each federal dollar. This figure, however, 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 monetary spheres.

An additional sum of $6,852.00 was allocated from the matching fund grant for operating expenses of the Council for an office. This sum marked a great step forward for service available to arts in the state, for it provided for a newsletter which provided for communication among those interested in same and different arts areas, e.g., dance, theatre, symphony, sculpture, crafts, museums, etc. It provided also for the kind of start toward a central office to coordinate the grants and the fiscal and aesthetic reports on arts needs, organizations and activities, both funded through grants and otherwise.

Prior to fiscal '71, fiscal reports for this Council and all its effort to administer funds and provide supervision to assure sound use of monies had been done without benefit of even an adding machine, with no regular secretarial help, save that hired on sporadic basis to meet long overdue report demands or similar crises. Members of the Council had paid from their own funds for all travel costs to attend meetings of the Council within the state, and to attend meetings out of the state, except for those specifically funded by the National Endowment for the Arts.

This $6,852.00 in federal funds was matched by $22,819.31 in private funds, largely in the form of donated office space and services. The Council's Chairman for 1971 devoted full-time, i.e., the 40-hour week routine, to serving also as an executive for the Council; the Council's Budget Officer donated what approached half-time to setting up and maintaining sound financial practices for the funds, and a number of interested friends of the Council donated many hours of secretarial time.

Perhaps the largest other boost, besides the administrative funding done in donated office space by Pacific Western Life Insurance Company, which continues to provide this very real service to us, and therefore to the arts in Wyoming. This donation constitutes sizeable dollar amounts, and it bears noting that the amount is no longer tax deductible, we understand, so the contribution includes such costs as utilities, janitorial service, and prestige of first-class officing.

The Wyoming Council's funding request for fiscal '71 was drawn in terms of three sorts of programs, special projects, technical assistance, and touring. On these terms, break-down of funding and matching figures for the year would be as follows:

	NEA funds Federal	Local matching	Total cost
Special projects	$27,177.00	$76,283,25	$103,460,25
Technical assistance	21,648.00	50,202.88	71,850.88
Touring	19,700.00	34,846.84	54,546.84
Total projects	68,525.00	161,332.97	229,857.97
Administrative	6,852.00	22,819.31	29,671.31
Total Fiscal Year 1971	75,377.00	184,152.28	259,529.28

In some instances determination of whether a program falls into a touring or special projects category is merely an arbitrary choice, as for instance when support is to a local dance patrons group who are importing touring companies, or to a gallery which brings to the state touring exhibitions, and it would be also possible to designate such programs as technical assistance. In almost every case, Wyoming's vast space and sparcity 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 total population figures stand at 332,416. The total number of people reached by the arts programs in this report, even on conservative compilation are at 1,689,732! This figure does include an arts fair held in the town of Jackson, at the south gateway to Yellowstone Park and in the heart of Grand Teton Park, which accounts for the million figure, but with even that fact taken into account, it's obvious that the arts programs are reaching people—either all Wyoming residents are participating in at least two arts programs, or a great many tourists are enjoying arts in Wyoming in addition to the scenic wonders 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 teachers 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 teachers' improved approaches, making the figure stand at 4,225 instead of a mere 65. Incidentally, the total cost of this program which can have real impact on the music appreciation of many youngsters is $200.00 in federal funds, plus $452.67 in funds which the teachers provide, and again dedication beyond price is a factor in the program.

During the interim phase of the Wyoming Council on the Arts, the committee which became the bulwark of the Council after its legislative establishment in 1967, selected the dandelion seed pod as an emblem for the Council. There 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 of those who attended the conference which closed fiscal 1971 for the Wyoming Council commented after the sessions "you can't count the many new plants this seeding dandelion might produce." At the close of this fiscal year, looking to the added help of legislative support which began for 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 would appear 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, this Council and Wyoming's people are indebted to the National Endowment for the Arts, for providing the initial funding to make 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 FORRISTER,
Executive Director.

THE CHIEF JUSTICE ADDRESSES THE NATIONAL CONFERENCE ON CORRECTIONS

Mr. DOLE. 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 recent months. However, for 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 President Nixon in June 1971 called for the convocation of a National Conference on Corrections to undertake a similar function as that of the highly successful National Conference on the Judiciary which met 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.

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 commitment, both in terms 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 the utmost importance to every level of our society. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered 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 corrections and prisons was heartened by the action of the President in convening this Conference. It is time for a massive coordinated effort by the state and federal governments.

It is also highly appropriate that these sessions are held in 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 175 years ago—on December 1, 1796, to be precise—on behalf of legislation to improve the penal system of the Commonwealth.

Taylor is remembered as one of the first leaders on this continent to advocate the enlightened views of the great Italian reformer and legal philosopher, Beccaria. Thus, Virginia is a familiar forum for the problems this Conference is considering.

For as long as I have been a judge, I have tried to see the administration of criminal justice in terms of three major entities, or parts, all constituting interrelated parts of a single problem.

The first, obviously, is the police and enforcement function; the second is the judicial function; and the third is the correctional and confinement aspect, and, closely related, the vital release programs of probation, parole, and work parole.

This Conference is concerned with that third and final, and very crucial, aspect of justice. On other occasions I have said. and I strongly believe, that this third phase is perhaps the most neglected of all three of the aspects of justice, although each of the other two has strong claims, unfortunately, for first place in that respect.

The problem of what should be done with criminal offenders after they have been found guilty has baffled societies for thousands of years. Therefore, none of us would be so brash as to assume that this Conference can even discuss, let alone solve, all the enormous problems that have been with us for several thousands of years. Because of this terrifying magnitude of the problem, I hope the Conference will find a way to identify just a few of the most urgent but soluble problems and address ourselves to them at once. If we try to solve all the problems, we will solve none. We must be content with modest progress and small victories.

Ideals, hopes and long-range planning must have a place, but much can be accomplished without further research or studies in the essentially "nuts and bolts" side of corrections.

I hesitate to suggest, even in a tentative way, my own views of those solutions to an audience that includes so many genuine experts and authorities in this field. Since the recent events at Attica, New York and in California, the country has been recalling the warnings that many of you have uttered on the need to reexamine both the basic attitudes and the tools and techniques of correctional systems and prisons. (I need hardly add, to this audience, that there is a vast difference even though for shorthand we use the two terms interchangeably.)

Even to reach some solutions on the urgent, the acute, the immediate problems, will take large outlays of money, and this cannot be produced except with a high order of public leadership to develop a public commitment and, in turn, a legisaltive commitment at state and national levels.

As I see it, the urgent needs include these:

1. Institutions that provide decent living conditions, in terms of an environment in which hope can be kept alive.

2. Personnel at every level who are carefully selected, properly trained, with an attitude of understanding and motivation such as we seek in teachers; and with compensation related to the high responsibility.

3. Improved classification procedures to insure separation of incorrigibles from others.

4. A balanced program of productive work, intensive basic education, vocational education, and recreation.

5. Communication with inmates.

6. A system of justice in which judges, prosecutors and defense counsel recognize that prompt disposition of cases is imperative to any hope of success in the improvement of those convicted.

INSTITUTIONS AND FACILITIES

I will not dwell on the subject of institutional housing since most of you are better informed on the facts and more knowledgeable as to the needs than I am. I fear that if we took a realistic national inventory and determined how many states meet minimum standards that most of us would agree on, the result would be a melancholy commentary on a 20th century society. The rise in crime has crowded most prisons beyond any reasonable bounds 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 the inmates, too far away from facilities for work release programs, and located in areas that do not provide adequate housing for personnel of the institution.

As you well 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 crucial. The recent events in two of the largest 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.

So even when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have enormous problems left to solve. It will take millions of dollars to accomplish the changes needed, but it must be done and we must have new thinking about what constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

PERSONNEL

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. "Just anybody" cannot make a sound correctional 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 the whole scheme of an organized society as the people who teach in the schools, colleges and universities. I suspect some experts would say that is an understatement in the sense that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prison inmates are not mentally and emotionally healthy and therefore need something more than normal people require. Guards and guns are not enough.

As we are now slowly awakening to the need for more intensive training for policemen on the beat and in the patrol cars, 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 here must be elated over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training program of the FBI Police Academy. The management and operation of penal institutions has desperately needed such a nationally coordinated program 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 and practices. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders and first offenders with recidivists, 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 would disrupt and destroy a 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 insulated from those who are bent on lawless acts.

A BALANCED PROGRAM

We need look only at the median 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 youth as many of them would be doing if they were free. 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 to 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 reenter.

RECREATION

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "coddling 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 and I have never seen any signs of "coddling" but I have seen the terrible effects of the boredom and frustration of empty hours and a pointless existence.

EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in schools and in life.

When society places a person in confinement, it deprives him of most normal opportunities 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 even if we lay aside all considerations of human decency and our religious beliefs as 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 made up of those who have no marketable skills on which to base even a minimally successful life.

The figures on literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner had learned 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, why have we thought prisoners can do without both? We should develop sentencing techniques to impose a sentence so that an inmate can literally "learn his way" out of prison as we now try to let him earn his way out with "good behavior."

We know that today the programs of education range from nonexistent to inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced for substantial terms must be given the opportunity, the means and the motivation to learn his way to freedom.

Meanwhile, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moonlighting" on second jobs to make both ends meet, there is no reason why every healthy prison inmate should not be required to work to earn at least a part of his "keep." Moreover, every consideration 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. Inside the walls of a prison this basic need of Man does not vanish and indeed we know it is greater than ever. A means of regular communication should be 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 small, by the processes of deliberation and choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk when we let him loose. Within limiting regulations necessary for basic order, inmates should be allowed to think and walk and talk as we will demand that they do when 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 again free?

SPEED IN ADMINISTRATION—JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. Time does not permit discussion of standards for sentencing and related matters that you are dealing with in "work shops" and seminars, but I am confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly as possible and that the appeal is swiftly heard and decided. In some places the time lag between arrest and trial is hardly less than a public disgrace. Some of this is due to the maneuvering of lawyers who misconceive their function and seek to postpone the trial data as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts—and some to poor management of the courts.

Whatever the cause, the impact of the delay in disposing of criminal cases covers a range of consequences:

(a) For any person, guilty or innocent, a long pretrial confinement is a corrosive experience; it is an enforced idleness in an environment often worse than the poorest correctional institution.

(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.

(c) We have all seen examples of defendants who have exploited procedural devices to postpone the final verdict of guilt for years with the result that their warfare with society has embedded and intensified their hostilities and rendered prospects for future improvement virtually zero.

(d) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release on bail is exploited to commit new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that when finally brought to justice he will receive concurrent sentences for multiple crimes. The measure of these risks can be found in the increasing percentage of recidivists on the criminal dockets of every court in the country.

We in the legal profession and the judiciary have an obligation to put our own house in order, and to this end the Judicial Conference of the United States in October approved programs to expedite trials and appeals in federal courts and to establish means of identifying the cases in which there is a likelihood that delays will occur. Other programs have been instituted and yet others are to come, all directed to insure the speedy justice to which every accused is entitled and which the society has a right to demand for the protection of all its members.

The statistics of the federal courts are only a small fraction of the total picture and they show nearly 42,000 new criminal cases annually, an increase of 45% in 10 years.

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 on the burden of promoting a Prison visitation Program. I am not currently informed on all the details but I do know that in some states a very large number of such visits have been organized and that more and more judges and lawyers are finding out about prisons. Few things would help more than having the public fully informed on the problems of prisons and the burdens of those who administer them. Most administrators know a great deal of what ought to be done and none of my cursory observations at this Conference present anything new to you. What is desperately needed is that you have the resources and the authority that only public support and legislative action can provide. The people of this country can bring that about if they will see firsthand how their institutions are being run and what support they receive. We know that not all offenders can be salvaged, as we know that

not all lives can be saved from disease, but like the physician, we must try.

It is most fortunate that one of the great organizations in the country saw, two years ago, that a national effort was called for to improve our correctional processes. The ABA created not one of the usual committees of lawyers, but a Commission that includes leaders of Labor, Industry, Judges, lawyers, penologists, and other specialists, including some of the most distinguished correctional administrators in the country, and a professional staff to carry on their work. All of the members of that Commission are invited members of this Conference and I know that Governor Richard J. Hughes, its Chairman, will cooperate in every way with you.

What I have been trying to express is my deep conviction that when society places a person behind walls we assume a collective moral responsibility to try to change and help that person. The law will define legal duties but I confess I have more faith in what a moral commitment of the American people can accomplish than I have in what can be done by the compulsion of judicial decrees.

The great tradition of America comes to us from the people who came here and by work, faith and moral fortitude turned a wilderness into a nation. Most of them were the poor and the oppressed of Europe. All of them wanted something better than the life they had abandoned.

Part of the American tradition has been to give of our bountiful treasure to others to restore them from the ravages of wars and natural disasters. We have not always shared our resources wisely but we have shared them generously.

Now we must try to give leadership and guidance to see that this generous spirit and this American tradition are applied to one of the large unsolved problems of Mankind and surely one of the unsolved problems of our society.

You accept this as your obligation by being here and I accept it as part of mine. Together we must let the people and the lawmakers know what needs to be done.

SOLAR HOMES

Mr. GRAVEL. Mr. President, is it possible to heat a home with almost no fuel except sunpower during winter in Washington, D.C.?

The answer is "Yes." There is a solar-heated home 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 6 inches of snow on the ground, warm even on cloudy days. Warm means 72° inside.

The extraordinary story of this house, and of its intrepid designer, was told in the Potomac magazine section of the Washington Post on September 26, 1971.

Mr. President, I ask unanimous consent to have the article entitled "Solar Homes," by Omer Henry, printed at the end of my remarks.

A BIG TEST 2 YEARS FROM NOW

There are about two dozen houses in the United States which use sunpower for a major part of their heat requirements. Some designs are more successful than others. All the houses are custom-built.

Custom-crafted homes are one thing. Developing plans for modular mass-produced solar houses, which would incorporate solar heating units with high-quality insulation to prevent 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 modular homes by the spring of 1973 for testing the following winter.

According to the article about solar energy written by Wilson Clark, and published in the November 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, until natural gas heaters displaced them.

Proven solar heating-and-cooling capabilities are never mentioned, of course, when 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 PLANTS

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 use of electric 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 30 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 all 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 where 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 Energy," 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 energy is radiated into 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 sun-power for space heating and cooling, could 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 produced only 0.3 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. 26, 1971]

SOLAR HOMES

(By Omer Henry)

THE MAN REACHED FOR THE SUN AND BROUGHT IT RIGHT INTO HIS HOUSE, AND IT WAS WARM AND AWFULLY CHEAP

Some years ago Harry E. Thomason, local government employee, dreamed the impossible dream. With his eyes wide open—in broad daylight. Only to him, the dream seemed to be possible.

Since Thomason 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.

Thomason 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, if he could heat his home with sunlight, perhaps 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 Thomason did not know that Massachusetts Institute of Technology was building a solar heating unit at a cost of $6,500 that would supply only half of the heat needed for a comparable house.

"Had I known that," Thomason admits, "I probably would have discarded my idea. But, not knowing, I went forward with my plans."

Was Thomason technically qualified for such a mind-stretching experiment?

As compared 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. Army Signal Corps.

Married and with a family, he had no money to waste. 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, Thomason 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 the various rooms in his house as needed. In doing this, he would require a heat trap—a device by which he could capture solar heat. He visualized that as a corrugated 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.

Thomason built a heat trap. He used a wood base. On top of that 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 Thomason 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 to the top of the heat trap and let gravity pull it down slowly in the valleys of the corrugations. The water could be circulated again and again as a means of increasing its temperature.

"When we tried out the system," Thomason says, "we discovered that we could bring the water temperature to 120 degrees Fahrenheit—or even higher."

But trapping heat was not enough. Thomason must store it for nights and extended periods of time when clouds obscured the sun. This might be for days at a time.

Thomason's solution to this problem was a heat bin. The heart of the heat bin would be a 1,600-gallon tank filled with solar-heated water and located in an insulated compartment in the basement.

FIVE-ROOM HOUSE

Now Thomason 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 25 feet. It would be most carefully constructed. On the bin floor, Thomason placed several concrete building blocks with the openings in a horizontal rather than vertical position. This would serve as a part of the distributing system.

Next came the 1,600-gallon steel tank, the core of the heat bin. Thomason lined the bin with 3 inches of fiber glass, made the bin airtight, and built an inner wall of rough lumber to protect the insulating material.

Around the tank Thomason 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, Thomason reasoned that he could store vast quantities of solar heat to last for four or five consecutive cloudy days.

Since the top of the heat bin would be near the floor of the living quarters, and since hot air rises, Thomason used 6 inches of fiber glass insulation between floor joists to minimize heat leakage from the heat bin into the house.

Next, Thomason faced the problem of releasing and distributing the heat as needed. To this end, he set up a fan system which would circulate a current of air through the openings in the concrete blocks, on through their irregular spaces about the stones and around the hot water tank.

"To control the release of heat," Thomason explains, "we installed a thermostat which could be set at 72°F, for example. This turned on the fan to blow air through 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 incapacitated temporarily due to the burning out of a pump motor or a control which could not be replaced for a week or so?

"Also," Thomason says, "it was possible for our coldest weather to come on the heels of 10 cloudy days when the solar heat reserve had been substantially depleted."

To insure that he could always have heat when needed, Thomason installed a conventional oil furnace. "And," he says, "since the time might well come when we would have no heat at all from the sun, we chose a full-capacity furnace."

As a means of making his solar heating system practical, Thomason 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 1,600-gallon tank, he would run cool water into it. He hoped to obtain the cool water by circulating it over the north roof of his house at night. Radiation and evaporation would help in the cooling process.

By running cool water into the tank, Thomason 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, Thomason 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, Thomason reasoned, he could heat the house 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 Thomason'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 fall. As you may guess, we eagerly watched the heating plant."

During the mild days of early fall, the house was amply heated. Then, one morning Thomason awoke to find 6 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, Thomason 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 Thomason's office phone rang. He answered and his wife reported that the House was warm. Everything seemed to be working fine. "Then," Thomason admits, "I breathed an easy breath. I even dared to ask about the temperature of the water going from the heat collector into the bin."

"One hundred and eighteen," Mrs. Thomason said.

"Better check that," Thomason said. "That seems to be too high."

When Mrs. Thomason called back, she confirmed the reading. Still Thomason 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 no snow."

Thomason asked for a third report and when Mrs. Thomason, a bit impatiently, confirmed her former finding, Thomason had no choice but to accept the fact that the water flowing into the heat bin was actually 118°F. His heating system had passed its first big test.

But how did the snow make the water hotter? This question bothered Thomason. But as he studied the situation, the answer became apparent. "I have concluded," he says, "that the sun's reflection on the snow sends 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."

FACING THE CLOUD TEST

Now Thomason 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 Thomason dared not cancel the visit. To do that would be deadly to his hopes for a patent.

In due time, the distinguished visitors arrived. Thomason showed his plant, explained it in detail. And eventually the crisis came. Thomason had no choice but to apply the final test—prove that the sun supplied heat.

His first move was to apply a thermometer to the water running into the heat collector. When he withdrew the thermometer, it read 68° F. Now, if the heat trap actually worked, the temperature of the water coming from the heat trap should be higher.

Thomason shook down the mercury in the thermometer. He placed the instrument in the water leaving the heat trap for the heat bin. A long minute passed and still another. Thomason must give his system a chance to prove itself right. When he withdrew the thermometer, he glanced at it.

It read 78 degrees!

"Frankly," Thomason says, "I was amazed!"

"This can't be right," said Chris Sondberg, Chief Buildings Inspector. "Take another reading."

"Right," said the Patent Examiner. "Try again!"

Cooperatively, Thomason tried again. And again the thermometer registered 78 degrees!

"Well, I'll be damned!" the Inspector said.

"Me, too!" said the Patent Examiner.

"And as for me," Thomason says, "I drew a sigh of relief a mile long! I'd made my point and the patent, I knew, would be granted."

With that dramatic incident, Thomason learned that a solar trap can collect some heat even if the sun is not shining. This is what happened on that day which Thomason will never, never, never forget.

ECONOMIC PERFORMANCE

In actual practice, how well did Thomason's system work?

Here are the facts: *Thomason 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, Thomason had used only 30 cents worth of fuel oil. His heat bill for the entire year was exactly $4.65!*

What did the plant cost? Is the system practical?

The entire system cost about $2,500. "There are some problems," Thomason says, "but they can be overcome. Even now, from an economic point of view, this plant will more than pay for itself."

As one might expect, Thomason's achievements have brought him certain recognition. Dr. Charles Abbott, sometimes referred to as

the "Dean of Solar Energy," has praised Thomason's system. Solar scientists from many countries—even as far away as Australia and Turkey—have visited his plant. Dr. Valentine Baum, the leading Soviet solar scientist, spent a couple of days with Thomason inspecting the plant and discussing solar energy.

In 1961, at the request of the National Science Foundation, Thomason traveled to Rome to present to the United Nations Conference a paper on solar heating.

A year later, Senator Hubert H. 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, asked Thomason to prepare a number of solar energy reports.

Since he completed that first solar house, Thomason has built two more. All three are in Washington.

And as for Thomason's impossible dream—it has grown into a fabulous 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 colleague, 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 of law."

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, as follows:

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 Employees 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.

JOHN J. KOMINSKI,
President.

JUSTINUS GOULD,
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. TUNNEY) 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 extensively with Senator TUNNEY as a member of the Committee on the Judiciary, and I believe his comments on this subject are most valuable.

I ask unanimous consent that the text of his 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. TUNNEY)

Criminal justice in this country is creaking 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 strength of our legal and judicial system has been tested by riots in our cities, crime in our streets, bloodshed on our campuses, bombings in our Capitol, and a war that has led some young people to choose exile and others to be tried for murder. Never before in our history have we demanded so much of our system 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 correctional institutions 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 a common devotion—the pursuit of justice. But today many of the fundamental concepts of our system of justice are being challenged by lawyers themselves. Some of them do it from within the courtroom by disrupting the judicial process. Others challenge it from public office by manipulating and tampering 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 with these words:

"There is much crime in America, more than ever is reported, far more than is ever solved, far 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 from which Congress mounted what was to be a massive attack on crime—the Omnibus Crime Control and Safe Streets Act of 1968—and established the agency to coordinate the effort—the Law Enforcement Assistance Administration (LEAA).

Substantial time and money has passed since that report was published. The Federal Government is now 4½ years, two elections, and $1½ billion into that attack.

This year LEAA will spend almost $700 million for law enforcement and related criminal justice programs. The vital question is how that money will be spent. 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 revealed, among other things, that LEAA money may to some extent merely be financing old programs from other agencies such as OEO and HEW under new labels. In addition, there is increasing 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 continue to be appropriated under this program. Congress must finally begin to insist that LEAA concentrate on establishing priorities for the use of federal funds and then focus its efforts on developing the strategies to accomplish those goals. This is the thrust of legislation which I will shortly introduce in the Senate together with other 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. These in turn have eliminated almost entirely robberies of bus drivers. Countless other strategies could be developed in much the same way if LEAA made 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 working and what is not.

Until the commitment to both of these problems is forthcoming, federal assistance to law enforcement efforts will continue to be needlessly scattered and ineffective.

II. THE STATE COURT ASSISTANCE ACT

As virtually every lawyer in every major city in this country can testify, the dockets of State and local Courts across the nation are in a sorry condition. 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 dramatic. The average time from arraignment to sentencing in most major cities in 1970 ranged from a low of four months to a more typical average of one year.

The social costs of this delay have led to a crisis for society. Ordered freedom in a democratic society depends in large part on the willingness of citizens to take their complaints into court rather than onto the streets, and yet the weight and frustration of the swelling backlog of cases could crush faith in our judicial system, and leave the streets as a dangerously attractive alternative. Thousands of our citizens can testify personally to the truth of the adage that justice delayed is justice denied. The robbery victim who waits ten months to testify against his assailant, the ghetto mother who loses her furniture to a fraudulent default judgment, the motorist who spends two days

in court waiting to protest an unjust traffic ticket—these are the true measure of the crisis in our courts and in our society.

Delays and congestion are only a part of the current crisis. First there is the manifold crisis of unequal access to our courts. We have entered an era in which the high promise of free legal services is threatened by application of political litmus tests by State governors who fear challenges to their policies by the poor. The result is a dangerous perversion of "law and order" into "law for the rich, order for the poor."

Second, the quality of legal representation can become destructively unbalanced in numbers and stamina. We are living in 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 Hugh Scott in introducing the State Court Assistance Act.

This bill responds directly to the summons issued by the President and the Chief Justice in February at Williamsburg, Virginia, for a national center for state courts. It creates an Institute for Judicial Studies and Assistance, operated and controlled 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 proposals for reform.

This legislation benefits from a gradual process of refinement designed to answer understandable concern about the possibility of 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 or judicial body in a state for any project to be funded in that state and expressly prohibits the Institute from exerting any control or influence over State or local courts.

It is always tempting—and often helpful—to propose further studies when faced with difficult social problems. 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 innovations such as jury selection without the presence of a judge, short-form procedures for personal injury cases, broader court conciliation services and settlement conference panels. Through the Institute to be created by this bill, California's experience with these procedures could be examined and evaluated by other states.

At the same time further recommendations can likewise be launched through the Institute. Thus, for example, the Special Judicial Reform Committee of the Los Angeles Superior Court has recommended an entire series of imaginative substantive reforms designed to remove from the courts cases which can more properly be handled outside them. The Commitee has recommended a series of quasi judicial panels to handle technical and complex controversies such as those between insurance companies litigating the interpretation of policies. Grants by the Institute could allow some of those recommendations to be tested.

In this way, the diversity of our state judicial systems can continue to be a source of strength for our whole nation, and we can heed the words of Holmes and Brandeis—expressed in another context—that each of our states can and ought to be a laboratory of experiment for the country at large.

III. YOUNG PEOPLE AND THE JURY SYSTEM

Improvement and reform of the judicial system would be incomplete if it did not include bringing young people fully into our system. Last year Congress began the process of enfranchising young people by granting to them the right to vote in Federal elections. Earlier this year Congress adopted and the States ratified the twenty-sixth amendment to the Constitution extending that right to vote to include all elections at every level.

It is therefore particularly important that our young people also be brought fully into the judicial process by joining in the right and the duty of service on juries. In fact, the arguments in favor of this proposition are the very ones which led to the lowering of the voting age to eighteen years.

For this reason, I have introduced legislation to lower the minimum age for service on federal juries from twenty-one to eighteen years.

Twenty other Senators joined me in offering this legislation, and the Justice Department has also supported it in hearings recently completed by the Senate Judicial Machinery Subcommittee.

Enactment of this legislation is particularly important because of the very purposes of the jury system. First, by making a cross section of the community the final trier of fact and judge of guilt, the American legal system provides the accused with the ancient common law protection—twelve laymen whose innate sense of justice protects him from the legalism, dogmatism and oppression of the State to which he might otherwise fall victim. Second, by making a random segment of the community an important part of the administration of justice, the courts enhance the community's acceptance of their decisions. In sum, opening Federal juries to those between 18 and 21 years of age will make available those abilities which make the jury a viable institution and will encourage acceptance of judicial decisions by a significant segment of our population—a segment which is already regarded under Federal law as fully adult for purposes of criminal prosecution.

We can and we must demand that all our citizens, and particularly our young people, accept responsibility for their own actions. An essential part of that responsibility is the right and the burden to render judgment on their peers.

IV. CORRECTIONS REFORM

"A Prison is the Grave of the Living, where they are shut up from the World and their Friends, and the Worms that gnaw upon them are their own Thoughts and the Jayler. 'Tis a House of meagre Looks, and ill smells: for Lice, Drink, and Tobacco, are the Compound: Or, if you will, 'tis the Suburbs of Hell; and the Persons much the same as there." John Dunton, 1686.

"Prisons should be so constructed that even their aspect might be terrific and appear like what they should be—dark and comfortless abodes of guilt and wretchedness . . .

There his vices and crimes shall become personified, and appeal to his frightened imagination as cotenants of his dark and dismal cell. They will surround him as so many hideous spectres and overwhelm him with horror and remorse" . . .

First Warden of the Main State Prison on its opening in 1824.

Our legal and judicial system has progressed in many ways since the time that those words were written, but our prison system is still woefully inadequate to the tasks we delegate to it. Those major tasks can be stated simply in principle: to segregate the offender from society and thereby protect it from him, to restore that individual society as a productive member, and to serve as a deterrent to future offenses by him and others.

In reality, the resources of our correctional system have been entirely inadequate to those tasks. In 1967 the President's Commission on Law Enforcement and Administration of Justice summarized the problem this way:

"For a great many offenders, then, corrections does not correct. Indeed, experts are increasingly coming to feel that the conditions under which many offenders are handled, particularly in institutions, are often a positive detriment to rehabilitation."

The director of the Federal Bureau of Prisons recently put it another way: "Anyone not a criminal will be one when he gets out of jail."

In fact, a study recently concluded by the FBI revealed that 65 percent of all federal prisoners released in 1963 were rearrested within a succeeding six-year period. Of those released under 20 years of age, 74 percent were rearrested; of those between 20 and 24 years of age, 72 percent; and of those 25 to 29 years of age, 69 percent. This is a human tragedy. It is also economic and social nonsense which we should not tolerate.

The need then is obvious. Yet in the face of that need, federal, state and local efforts have all been sadly inadequate. Advocates of prison reform have never had the political clout necessary to focus the attention of legislators or administrators at any level to the extent adequate to the task.

Congressional response thus far has in many ways mirrored the public inattention but a gradual shift is beginning. Last year the Senate authorized for the first time a full time staff for its Penitentiaries Subcommittee. Funding for corrections is beginning to increase. This year's budget for the federal prison system was $50 million over last year. But the major stumbling block to effective reform still remains money. And even the use of LEAA funds for corrections has been inadequate. In California last year only six percent of LEAA funds distributed to the state went for improvement of the correctional system.

But ultimately the real challenge rests with all of us. Many concepts and ideas which we have known for years will be difficult to implement, as long as we prefer to sweep the tough questions of rehabilitation under the rug. Until the rehabilitation of criminals commands greater public support, the terrible price of neglect will continue to be imposed on everyone. Chief Justice Warren Burger recently stated quite eloquently:

"When a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him: he is not."

The process of building a coalition for reform is beginning. The creation of the ABA Commission on Correctional Facilities and Services is a hopeful sign because its mandate is the development of a program of action. It is a task for which lawyers are particularly well suited and one which should be given the highest priority. The legislative process will move only as fast as its constituency, and I suggest that lawyers become vocal constituents.

CORPORATE FARMING IS NOT IN THE NATIONAL INTEREST

Mr. MONDALE. Mr. President, yesterday's New York Times featured a front-page article, by B. Drummond Ayres, Jr.,

which gives the nonfarm reader an in-depth briefing on the corporate invasion of agriculture.

The article outlines how several conglomerate corporations are pursuing their goal of integration from seedling to supermarket. 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 paid by consumers stayed the same.

Mr. President, nothing I have seen or heard concerning the corporate invastion of agriculture has shown much different. There is much evidence that these conglomerates will have an ill effect on our independent family farmers. Also, without the family farmers to provide the business which supports them, our rural communities cannot be expected to survive. 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. 5, 1971]

RISE OF CORPORATE FARMING A WORRY 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.

All across the United States, from the wide-open prairie surrounding this cattle and grain center to Maine's fertile potato fields and California's irrigated grapefruit groves, big business is 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 turkey processing plants.

John Hancock now sells not only insurance but also soy beans.

Corporate farming or conglomerate farming or agribusiness—by 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 giantism and had disclosed membership on the boards of such super farm firms as Ralston Purina and Stokely-Van Camp.

Senator Gaylord Nelson called Dr. Butz's views "brazen" and has begun to investigate corporate influence in agriculture Legislation. The Wisconsin Democrat says: "Corporate farming threatens an ultimate shift in power in rural America, a shift in control of 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 more than a year and reports:

"Corporations generally have become the dominant force in rural America. Their concentration of agricultural markets and their power over rural people is increasing every day. Control of American agriculture has moved from the fields to the board rooms of New York, Kansas City, Los Angeles and other centers of big business."

Farmers themselves speak even more directly the problem. Summing up the position of one of the largest farmer associations, the National Farmers Organization, Rogers Blobaum of Creston, Ia., said:

"A corporate takeover of the food industry would be a national disaster."

Corporations everywhere deny any takeover is 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 2.7 million farms left in the United States, only about 1 per cent are carried on the Agricultural Department's books as incorporations. And most of the incorporators still insist they are "family farmers."

But that picture is misleading.

Corporate farms are big farms. Many consist of thousands of acres of the best land obtainable. Their owners often have backlogs of development capital and, if diversified, obtain numerous tax advantages.

On the other hand, the average American farm, the unincorporated farm, consists of only about 400 acres, some of them nonproductive. The man who owns 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 deals 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. Often, a well-heeled corporation moves in to fill the void, or maybe a wealthy city doctor looking for a tax deal or maybe a neighboring farmer who has somehow found the means to expand and is on the brink of incorporation.

Actually, not all farming corporations owns land. Some only 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, the Tenneco Oil Corporation owns and farms about 35,000 acres of Southern California's best crop land. It leases 100,000 acres more. And it contracts for the crops of dozens of other farms in the area.

The overall effect is to make Tenneco one of the 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.

Tenneco has no monopoly on the vegetable market. But in some other agriculture sectors, corporations have achieved dominance or near dominance.

Three companies—Purex, United Brands and Bud Antle—produce a large share of the lettuce eaten in America, a situation that has led to a rare agricultural antitrust investigation by the Federal Trade Commission. Many Government officials contend that a corporation cannot grow lettuce any cheaper than a family farmer, a point farm economists have frequently made, not only about lettuce but also about most other crops.

Another sector of agriculture dominated by corporate America is the broiler industry. There, 20 or so corporations are in control, producing everything from chicks to feed to packaged drumsticks. Among these companies are Pillsbury, Perdue and Ralston Purina, with which Secretary Butz was associated.

CHANGE 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 usually growing broilers under contract for one of the big agrigiants.

In a shed built with a loan from a corporation, he feeds mash produced by the corporation to chicks hatched in the corporation's incubators. When the birds are mature, the corporation takes them away, slaughters them in its own processing plant, packages them prettily, then ships them off to a supermarket—perhaps its own.

The farmer is paid $50 or so 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 Peninsula—comprising parts of Delaware, Maryland and Virginia—threatened court action when some broiler corporations proposed cutting growing fees in half.

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 negotiate, however, and eventually the strikers gave in and returned to work.

Commenting on the strike's failure, one grower, Crawford Smith of Cullman, said:

"Us folks in the chicken business are the only slaves left in this country."

George Kyd of Ralston Purina counters:

"Chicken is cheaper to eat 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 Wellford, one of Ralph Nader's agriculture "raiders," replies:

"Poultry peonage. One economist cranked in every applicable factor and concluded that most chicken farmers make minus 36 cents an hour. The broiler industry is the most corporatized in American agriculture and the lesson is there."

Foes of corporate farming refer to the broiler industry as being "vertically integrated"—that is, the corporations control almost everything from field 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 in agriculture is integration from seedling to supermarket."

In fact, the corporation has almost achieved its goal. Not only does it own land, but it also make tractors, tractor fuel and pesticides. Furthermore, it packages farm products and sells them in little groceries attached to its service stations.

In the potato industry, some companies have achieved full integration. This became evident several years ago when Idaho farmers 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 quietly 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, some concerns like Ralston Purina now rent gilts and boars to farmers sell the farmers grain to feed the resulting pigs, then offer to market the pigs once they reach maturity.

In the cattle business, a few petroleum corporations have set up huge feed lots in the Southwest, some with 50,000 head or more. As a result, oil companies are steadily becoming an influential force in cattle feeding, encroaching 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, they reduce the need for stockyards, the one place where the family farmer can always be sure of getting the best price for his cattle because the bidding there is always competitive.

Victor Ray, an official of the National Farmers Union, a large farmers association, contends that several years ago Denver supermarkets whipsawed steer prices down from 29 cents a pound to 21 cents a pound simply by repeatedly shifting purchases from feed lot to stockyards and back to feed lots. Mr. Ray says:

"When the chains weren't buying at the yards, prices naturally would drop. Of course, the chains denied any connection. But interestingly enough, all the while that wholesale meat prices were going down, retail meat prices stayed the same. I figure the people of Denver paid at least $4-million more for food during that period than they should have."

Here in Kansas City, there is a company that specializes in investing the excess capital of wealthy corporations or individuals into cattle and other agriculture operations. Called Oppenheimer Industries, it takes on no client with a net worth of less than $500,000 or an income tax bracket of less than 50 per cent.

Its specialty is "cowboy arithmetic," tax savings for the rich through depreciation, favorable capital gains levies and other 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 three out of every four people with annual incomes of $100,000 or more are involved in farming in some way, most of them reporting agricultural losses that can be written off against taxes on nonfarm income.

If Federal tax laws seem to help the city corporation that farms on the side more than the family farmer who farms full-time, they are not the only ways in which Federal programs tend to work against the little man.

The biggest farms—the ones with the wealthiest owners—receive the biggest agriculture subsidies. The biggest farms also get the biggest dollops of Government-supplied irrigation water.

Recently, Congress placed some limits on subsidies. And the courts are beginning to crack down on the big water users, particularly those who do not live on the land they farm.

But still the gap widens between the rich and the poor.

"We lost the battle against Earl Butz but the struggle sure swung attention toward the farm issue. I've never seen Washingon so upset over an agricultural thing. Maybe Earl Butz will turn out to the 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 to make the major transition from work to retirement. And many persons in their fifties or sixties are uneasy about the "shock of retirement" or the "threat of leisure." Unless far-reaching changes are instituted, 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 traditional work-lifetime patterns 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 1.4 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 a 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 direct the Civil Service Commission to provide training for agency retirement advisers and to publish guidelines about related work-life programs, such as phased retirement, trial retirement, new types of part-time work, and sabbaticals.

Mr. President, I commend the education recommendations 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 recommendation were ordered to be printed in the RECORD, as follows:

EDUCATION

PREAMBLE

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 and meaningful life, and as a means of helping them develop their potential as a resource for the betterment of society.

BILINGUAL AND ETHNIC CONCERN

All issues and recommendations which will affect or serve linguistically/culturally different populations must enlist the necessary linguistically/culturally different qualified expertise in the development processes of such proposals so as to insure 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, State and local government agencies, i.e. 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 groups according to their specific needs and choices. Where feasible and desirable the aged must be granted the opportunity to take advantage of existing programs with both old and young learning from each other. However, alternatives must be provided which emphasize the felt needs of the aged at their particular stage in the life cycle.

The expansion of adult educational 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 use all appropriate channels and delivery systems.

For older persons to participate in educational programs; agencies, organizations; and government must provide incentives. These incentives should be aimed at eliminating specific barriers to the availability and accessibility of educational services for older persons including transportation, free attendance, subsistance, 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 older adults are increasingly advocating and participating in lifetime education, we recommend that the public library, because of its nearby neighborhood character be strengthened and used as 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.

We recommend further that the Library Services and Construction Act be amended to include an additional title to provide library services for the older persons.

Emphasis should be given at every level of education to implement and expand the expressed educational objective of "worthy use of leisure." Education must be directed toward an acceptance of the dignity and worth of non-work pursuits as well as toward development of leisure skills and appreciations.

FUNDING 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 in order to assure continued, meaningful living.

Educational opportunities must include basic, continuing, vocational education, and training about needs for better use of services, cultural enrichment, and more successful adjustment to aging.

MAJORITY OR PLURALITY POLICY PROPOSAL

Public expenditures for education for older persons must be increased and directly related to the proportion of older persons within the population. These expenditures should relate to the needs articulated by all segments of the population of older persons including rural and urban and ethnic minorities or by the organizations that represent older persons.

Available facilities, manpower and funds must be used for educational programs designed and offered on the basis of the assessed needs and interests of older persons. The initiative may be taken by many sources, but the design and curriculum must include active participation by older persons.

The Federal Government must consider the concerns of educational programs of older persons in a greater equity of allotment and on a higher priority basis when allocating funds for educational programs.

Where matching funds are required for Federal education 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 suitable compensation in lieu of "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 aspect of aging, must be developed and introduced in the curricula at all levels of education from pre-school through higher education.

MASS MEDIA

A national awareness campaign must be initiated through mass media and through educational systems to promote better understanding by society of the nature of the aging process, the needs and interests of older people, and 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) teacher training, (c) curricula and (d) teaching materials for focusing on the critical educational needs of the older persons in America.

PRE-RETIREMENT

Pre-retirement education programs must be established to help those approaching retirement age to achieve greater satisfaction and fulfillment in later years. Pre-retirement education must be the primary responsibility of the public education sector in cooperation with relevant community organizations 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 professional preparation of those who will and are working with older persons (law, medicine, 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 growing out of the 1971 White House 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 system, Federal, State 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 contributions that range from $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 purpose.

The campaign aims to support President Nixon's recent economic actions. Backed by J. Willard Marriot, Hobart Lewis—the president of Readers' 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 affirmatively.

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. Deputy director of the group, 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 slick-sell methods to sell citizenship and confidence is a dangerous game. National pride, built on Madison Avenue tricks is 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 may come a day in the not too distant future when the persistent critics of the petroleum 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 attitudes 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 Libya. Such a refinery, its advocates said, would solve all of that area's fuel and gasoline problems including lower prices.

Following last year's troubles in the Middle East and North Africa when petroleum supplies from those areas became scarce and prices skyrocketed, the clamor 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 clamor for 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 the Interior 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 mass 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 scarcer but more expensive in the years ahead.

Almost all of the plans to supplement east coast supplies of natural gas are for importation of liquified natural gas from Algeria or other foreign sources including Russia or for synthetic gas made from imported crude oil or naphtha.

When the able senior Senator from Texas (Mr. TOWER) offered an amendment recently to the Revenue Act which I and several others cosponsored, 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 coastal zone management 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 ironical 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 sports fishermen as well as the shrimp and oystermen. And most certainly those who pay the taxes for State education, welfare, highway, and other public expenditures are highly appreciative of the tax 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 on marine communities 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, 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 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 a recent article in the 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 a 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, "Cheap Foreign Oil, Gas Myth Laid to Rest" also 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 expensive but relatively 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 peril point of such dependence now if 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 national cause, that 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 energy necessary to carry out their objectives of cleaning up the air and the water, the recycling and reclamation of wastes, synthesis of coal for natural gas, oil shale development—even electrification of transportation facilities—mass transit.

It is wonderful, Mr. President, to visualize a clean environment, pure air, clear water, and a landscape or seascape unblemished by oil or gas drilling rigs. But it seems to me, Mr. President, that it is also important that we in Congress recognize the realities of the energy problems of this Nation which cannot be pushed aside any longer. The problem is here and now, especially in the Northeast and it will not be solved but only postponed by continuing reliance on imports which even now, if seriously 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 SEALIFE, IOCC TOLD

(By Billy G. Thompson)

BILOXI.—Mankind is reaping greater harvests of seafood and other marine resources because of the oil hunter's ingenuity and tenacity 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 by (oil and gas) production platforms," a driver-naturalist reported at a joint session of technical committees at IOCC's annual meeting.

Moreover, observed Burr Tettleton, senior Gulf Coast geologist for Sohio Petroleum Co., "the wonderful migration of fish toward those 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 fishermen bring in $2 million worth of pompano, alone.

(2) Some 10,500 wells have been drilled in the Gulf of Mexico but only 26 have been temporarily out of control and most of them gas with no pollution. More than 11,500 wells offshore have been drilled in the U.S. with "only one Santa Barbara drilling accident . . . one accident of the magnitude of Chevron, a production mishap off Louisiana, and only one incident like Shell's, a workover 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 24-year life-span, the offshore 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. And, Tettleton noted that within the next 20 years a minimum of 50 percent of the production must come from under the sea.

(4) Investment in offshore oil operations and facilities in the next decade should average $2.9 billion per year for a total of $29 billion.

Dr. J. G. Mackin, professor emeritus in Texas A&M's biology department, told the joint session that marine life is "in no sense 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 in recent years "has 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."

Mackin said his and other studies have shown all oil spills have caused some damage when oil was washed into inter-tidal zones in large amounts, but he added, "in most cases the damage was small and fairly quickly repaired."

In the Torrey Canyon spill, Mackin noted that most of the damage apparently resulted from injudicious use of toxic dispersants in clean-up operations. He warned against permitting oil spills to move into 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 it asserted that it isn't too early for citizens of your region to begin informing themselves on the subject of offshore oil production. Amen!

It was discouraging in that its writer, while waxing poetic, manifested what seemed to me to be a complete lack of information on the subject. He referred to visions of Ocean City, Maryland, as "the Galveston of the East, with derricks offshore, tankers plying alongside the coast 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, most of them in the Corpus Christi area beyond the 10-mile limit.

Louisiana's prolific offshore oil fields are principally well beyond the three-mile limit, with most derricks far out of sight of land. Some are more than 110 miles offshore. We have had no experiences to compare with that of Santa Barbara, when oil was spilled in a relatively narrow channel between the mainland and coastal islands. As a matter of record, our seafood production has increased rather than decreased since the first well was brought in off Louisiana in 1946.

Rather than torment themselves by agonizing over the spectre of polluted beaches, the people of Maryland, Virginia and Delaware might give more thought to trying to have the federal government share with coastal states the bonanza which it is receiving from minerals production off Louisiana and which it probably will receive from production off other coastal states.

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 are not permitted to collect severance tax on the offshore production or sales taxes on pipe, food, drilling mud and other materials moved from Louisiana to the offshore operations.

Having Congress treat offshore federal lands precisely as inshore federal lands are treated would be an equitable solution of this problem. Wyoming and other states receive .375 percent of revenues from minerals, timber and other production from federal lands within those states. Coastal states are entitled to the same consideration.

GEORGE W. HEALY JR.

NEW ORLEANS, LA.

[From the Oil Daily]

CHEAP FOREIGN OIL, GAS "MYTH" LAID TO REST

(By Bill Mullins)

CHICAGO.—Four foreign officials appeared here and dealt another blow to the myth that the United States can enjoy an era of cheap foreign petroleum products if it will stop restricting imports.

They spoke at the 30th annual meeting of the Institute of Gas Technology, during a symposium entitled, "How Natural Gas Exporters View the U.S. Gas Market," and their basic message was this: the natural gas will be available but it won't be cheap.

That message comes at a time when the Organization of Petroleum Exporting Countries (OPEC) is steadily pushing up the price of the crude oil its members export to Europe, Japan and North America.

The 11-member OPEC, which controls 85 percent of total world oil exports, includes Algeria, Indonesia, Libya, Nigeria, Venezuela and these Persian Gulf members: Abu Dhabi, Iran, Iraq, Kuwait, Qatar and Saudi Arabia.

Algeria, Nigeria 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 restrictions would result in plentiful supplies of cheap foreign oil might have found the symposium distressing.

But that symposium gave a far truer view of what lies ahead for those who choose (or who must) rely on foreign petroleum supplies than the politicians have provided.

F.R.A. Marinho, deputy director of the Department of Petroleum Resources, Federal Ministry of Mines and Power, Nigeria, describes his country's attitude.

"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," Marinho said.

Estimates show the cost of Nigerian LNG at the U.S. terminal would exceed $1 per million BTUs and it has been suggested that figure is not acceptable in the United States, he continued.

The continued pursuance of a repressive pricing policy will effectively deny valuable reserves to the U.S. market, he said. And he emphasized this includes Nigerian LNG.

"We consider that if the United States market is to absorb gas from Nigeria, it would have to be willing as time goes on to pay some premium for the commodity itself and for the stability and security innate in supplies from Nigeria," Marinho said.

And Nigeria also sees a need for the United States to provide incentives and make available facilities to organizers of projects for supplying LNG to U.S. markets, he said.

"We do not contemplate here the handing out of A.I.D. or similar 'largess' but the facilitating of processes of raising capital, particularly by developing countries whose peculiarities or economic aspirations may not necessarily be compatible with the enthronement of American entrepreneurial interests, and making other fiscal concessions as may be necessary to ensure a worthwhile project to all concerned," he added.

A. Chanderli, president directeur general of Compagnie Algérienne du Méthane Liguide (CAMEL), explained Algeria's attitude on the LNG question.

Instead of mentioning price, Chanderli noted that Algeria owns facilities which have been producing and delivering LNG to England, France and other markets since 1964.

Algeria is putting special emphasis on the development of its natural resources in order to assist in the nation's economic development, he added.

This development has required large investments by Algeria and it wants to realize a return on its investment, Chanderli said.

"The El Paso-Sonatrach contract, for example, will require on the part of Sonatrach an investment in excess of $5000 million," he explained.

"It is evident that Algeria will have to provide conditions which insure that the investment made by Sonatrach, its national oil company, achieves the highest rate of return," he said.

Although Chanderli didn't mention specific prices, the phrase "highest rate of return" indicates his country's attitude.

And the contract between El Paso Natural Gas and Sonatrach that he mentioned will result in deliveries to Savannah, Ga., at 68.6 cents per million BTUs and to Cove Point, Md., at 64.6 cents per million BTUs.

Maurice Valery N., general director, Corporación Venezolana del Petroleo, noted that foreign natural gas may play an increasingly important role in the United States'

"We know, in connection with gas imports to the United States, that during 1970 they represented four percent of total supplies and that they may increase to 28 percent in 1985, assuming there is availability of supply from abroad," he explained.

This may result in Venezuela playing an important role in supplying the United States with natural gas, he said.

"Venezuela has been traditionally a country that exports energy to the United States and it hopes to continue in such a position for a long time, in satisfactory conditions for both countries, aiming of course, that this exchange is carried out reasonably and at prices that represent a fair energy resource," he added.

David B. Furlong, managing director and chief executive officer of the Canadian Petroleum Association, said flatly the United States would pay higher prices for Canadian gas or it wouldn't get the gas.

"Historically, both in Canada and in the United States but more so in our country, natural gas has been sold at bargain basement prices," Furlong said.

"Our present export price at the border averaged 27 cents per thousand cubic feet (a thousand cubic feet is roughly equivalent to a million btus) in 1971," he continued.

"Even this is still bargain basement," he said. "As a wellhead return to the producer, it is the equivalent of oil at only 70 cents per barrel when converted to BTU equivalent.

"I'd say that we in the producing industry are planning to get fair value for our discoveries in the future," he said.

"I would suggest that, realistically, in the contracts of the next 20 years this price must increase, probably to double what it is now or even higher, because, as I see it, there are only two alternatives open to you," Furlong commented.

"The first is to pay these other gentlemen on the panel substantially higher prices for their LNG than you would pay us for pipeline gas," he said.

"The second is to pay similar or higher prices than the Canadian price to develop oil shales or coal for gasification," he added.

Unless the price increases mentioned do occur, it is not likely that future additions to Canadian gas reserves will be made available to the United States, Furlong said.

It should be noted that the desire of foreign nations for higher prices is not the only factor that is pushing up the price for natural gas, crude oil and petroleum products.

Furlong summed up the factors in his own nation with this sentence:

"The frontier areas 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 where an organization like OPEC both controls most of the surplus petroleum supplies and sets policy on prices, prices will continue to rise.

NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

Mr. HUMPHREY. Mr. President, the recent unanimous passage by the Senate of the National Sickle Cell Anemia Prevention Act, S. 2676, 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.

I strongly support the action by the Senate Labor and Public Welfare Committee, in reporting this bill, to authorize appropriations over a 3-year period of $100 million for sickle cell anemia screening, counseling, and referral programs, and of $30 million for research and training grants. Such a two-pronged attack is essential in the conquest of this disease.

Important progress is being made both in developing effective and simplified disease-detection techniques and in laboratory research on reversing the sickling process—as, for example, through the use of urea and more recently a component of the urea solution, sodium cyanate. And recently, in New York City, some 1,200 doctors and allied professionals attended the first major conference in the United States devoted to this long-neglected genetic disease.

Nearly 10 percent of black Americans are believed to be sickle carriers, having one mutant gene. And at least one of every 500 black babies born this year will suffer from this painful and life-shortening disease, as a result of the mutant gene, or sickle trait, in both parents having gone undetected.

Moreover, during an 18-month screening of over 5,000 recruits at Fort Knox, Ky., the director of the Blood Transfusion Division 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 Armed Forces Institute of Pathology.

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 represents periods of extreme pain, 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 promising 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 critical health 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. Roland B. Scott has been conducting research since 1948, fully merit Federal as well as private assistance.

And I am greatly encouraged that 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 care or medical services under VA benefits. And a veteran found to have the trait or disease can request counseling and the treatment of related disabilities.

Recently, it was my privilege to join in helping launch a fundraising drive by the Black Athletes Foundation for Sickle 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 National 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 in the making 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 Dusartz 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 Serrano against Priest, Miles 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 other 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 easing the earlier inequities in educational finance in the State. For quite some time our distinguished Governor, the Honorable Wendell Anderson, has been urging that the State assume 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.

Progress is also being made in other States. Governor Milliken of Michigan for the past 2 years has been urging the State to begin financing substantially all of the non-Federal share of elementary and secondary education. Last year Gov. Marvin Mandel, of Maryland, proposed and obtained legislation for the State to assume all school construction costs as a first step to eventual full State funding.

However, as encouraging as all of these developments are, there is much more to be done. The Federal Government needs to move promptly and decisively to assist the States and localities in doing what should have been done all along—providing all children an educational opportunity that is both adequate and equal. I intend to seek legislation that will provide Federal assistance in the transition to full State funding of the non-Federal share of educational costs while also helping assure significant property tax relief.

The legal challenges to the traditional method of financing schools place a tremendous responsibility upon the legislatures of the States. The importance and the urgency of the task confronting the legislatures is well summarized in an editorial appearing in the November issue of the National Civic Review. The editorial was written by William G. Colman, one of the original architects of the growing nationwide movement for full State funding of educational costs. He served in the 1960's as Executive Director of the Advisory Commission on Intergovernmental Relations and is currently a member both of President Nixon's Commission of School Finance and the Montgomery County, Md., Board of Education.

The response of the Minnesota Legislature to the school finance challenge is well described in the current issue of the Citizens League News published by the Citizens League of the Twin Cities metropolitan area. The article is entitled "State Adopts Historic Changes in Policy on Local Government."

I ask unanimous consent to have printed in the RECORD the Civic Review editorial by Mr. Colman entitled "School Finance: A Challenge and a Change," followed by the Citizens League article.

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

SCHOOL FINANCE: A CHALLENGE AND A CHANGE

A challenge of historic proportions, paralleling the reapportionment crisis of the sixties, now confronts practically all state legislatures. Unless state policy making is again to be abdicated to the courts, the legislatures must move promptly to restructure the financing of elementary and secondary education to provide equality of opportunity, at least in terms of the fiscal resources placed back of each child.

The California Supreme Court decision in *Serrano* v. *Priest*, with its mandate of one student, one dollar, has spawned a host of cases. At least half the states have constitutional requirements governing the provision of free public education, with equal accessibility to all, that promise the wholesale overturn of the local property tax as a primary source of school finance, regardless of whether or not the finding in *Serrano* that it violates the fourteenth amendment is sustained. If legislatures fail to act, we will again see judges drawing maps, but this time delineating school districts. The results could be chaotic because school districts are so much more difficult than legislative districts.

Many agree with the *Fortune* magazine editorial statement that, "We applaud the decision in *Serrano* v. *Priest*, and we hope it betokens a general move away from the property tax as a major means of financing public schools." (Actually a statewide property tax, for schools or any other public purpose for that matter, meets the constitutional requirements of *Serrano*. Dependence on the local property tax with wide disparities among districts was the target and victim of the decision.)

Many welcome the dawning of a day when equality of educational opportunity is no longer an empty phrase, when land-use decisions by county and municipal governments are not dominated and skewed by concerns of whether residential development is going to pay its way in local school taxes, and when the accident of geography will not determine the quality of public education. But for practitioners and students of government this upheaval in school finance brings grave concerns about the viability of our local and state governments and indeed of the concept of federalism. The states must move to fill the vacuum that suddenly has been created unless they want schools federalized and nationalized.

Already there is talk of a "national tax" for schools to replace the property tax. Already there is talk by big-city superintendents of the need to "federalize" all of the inner-city schools. These officials are understandably desperate: Their schools have be-

come jungles of terror; they must operate in decrepit and unsafe buildings; they are faced with declining tax bases and a taxpayers' revolt; and, through recent years, quite a few of these cities have seen themselves miserably short-changed by state aid formulas. Make no mistake about it—if our deteriorating city public schools go under, an economic debacle involving the write-off of billions of dollars of inner-city investment will surely follow, and "saving the cities" will have become an academic concept instead of a viable objective of public policy.

If the states do not move promptly to meet the issues of equity and legality that now permeate the field of school finance, we face critical issues of the survival of responsive and responsible government. For there exists the distinct possibility that the courts will be assuming legislative powers by default, thereby impairing for all time at the state level the concept of checks and balances and shared 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 political sagacity and conducted in a spirit of fair play. To redraw school district lines or to revise state financial formulas is to delve into the very heart of legislative policy making.

So it is up to governors and state legislatures to take the actions necessary to provide equality of fiscal resources for education. The challenge is more crucial for the legislatures than for the governors. The latter can propose but the legislatures must dispose, and must act affirmatively, if the alternatives of judicial legislating or nationalization of school finance are to be avoided. (It should be noted that equality of dollars is only a first step, albeit a mighty one, in assuring such equality for it is well known that the cost of educating disadvantaged 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 supplement from local tax sources, with operational and policy responsibility left with the local districts; (2) complete equalization of both state and local school costs with the state playing the role of Robin Hood between rich and poor districts; and (3) redrawing school district boundaries to provide substantially equal fiscal resources (as measured by equalized assessed valuation or by personal income, or a combination of the two). It is worth noting that, prior to *Serrano*, four or five 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 professionally on a year-round basis, and empowered to hold hearings and conduct other business between sessions. Too often these committees have been active only during brief legislative sessions and have had to rely for staff assistance on the state education agency or the state teachers' association. Also the legislatures must deal with a public and political climate in which many citizens have become convinced that the education profession and its establishment has been over-spending and under-achieving. This means greater public resistance to the drastic reshaping of school finance.

So the legislatures, over the next year or so, face a critical and exacting test. All citizens concerned with the preservation of strong and responsive state government in a balanced federal system will be wishing them well.

STATE ADOPTS HISTORIC CHANGES IN POLICY ON LOCAL GOVERNMENT—LEGISLATURE ASSUMES MAJOR RESPONSIBILITY FOR REVENUE "MIX"

Historic changes in state policy toward local government were written by the 1971 Minnesota Legislature which just ended.

The Legislature dramatically altered its formulas for distributing state tax revenues to local governments and committed the state to return more revenues than ever before to them.

At the same time the Legislature took over a more direct responsibility for levying taxes of all kinds from the state's cities, villages, townships, counties and school districts.

No longer are there two separate fiscal systems, if ever there really were. The Legislature has formally tied the state and local elements of the system together in unprecedented fashion.

Undoubtedly the new policy will have far-reaching effects, with new roles emerging for the Legislature and for local governments. The job of setting the aggregate level of taxation, and the relative mix of different taxes, will rest chiefly with the State Legislature, not, as in the past, by an uncoordinated combination of the Legislature and local governments.

Local governments in future years will devote less time and energy on how to raise revenue. Rather their focus will shift increasingly to how best to use the revenue which is made available to them. Local governments will probably be stimulated to look more closely at whether various programs are worth maintaining at present or higher levels in light of proposed new programs which may merit higher priority.

Campaigns for city council, county board or school board probably will involve more discussion of setting priorities on the use of dollars and less on pledges to "hold the line" on taxes which now becomes mainly the Legislature's job.

Following are some of the major actions taken by the 1971 Legislature in changing its policy toward local government (some of these changes are discussed in greater detail in other articles in this issue):

A comprehensive revision of the school aid formula, designed to assure equality of opportunity for students throughout the state, regardless of their socio-economic background or the wealth of the school districts where they live.

A comprehensive revision of the formulas for distribution of state aid to cities, villages, townships and counties, with emphasis on eliminating an out-dated method of reimbursement for certain tax-exempt business personal property and on providing funds for those units of government most in need of additional financing.

A large infusion of state non-property revenues to local government, accompanied by mandatory reductions in local property tax levies and by strict limits on local property taxes to guarantee property tax relief.

A prohibition against further sales or income taxes being levied by any local government. Only the Legislature will have power to levy such taxes.

A new public employees bargaining law designed to assure orderly and equitable settlement of compensation negotiations between state and local governments and their employees.

A limited pledge of the state's full faith and credit behind general obligation bonds of local units of government, designed to improve the credit rating and reduce interest costs for certain localities with small property tax base.

A sharing of 40% of the future growth in commercial-industrial property tax base among all units of government in the seven-county Twin Cities area.

A partial shift in financing county highways from the property tax to a wheelage tax, accompanied by an authority for the Metropolitan Transit Commission to levy a limited property tax.

An upgraded local government fiscal information system under the Commissioner of Taxation, working with a new Intergovernmental Information Services Advisory Council, designed to assure a complete, computerized, up-to-date record of local government receipts and expenditures.

A joint executive-legislative Tax Study Commission assigned, in part, to review causes and effects of intercommunity disparities, 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 in the past, (b) exempting all business inventories and equipment and (c) gradually eliminating the low-rate property tax classifications which oil refineries and certain parking ramps have had in the past.

A new 17-member Quality Education Council with a $750,000 appropriation 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 brink of a serious energy crisis, and that the production of abundant, clean, low-cost energy is essential to the future growth of our economy.

On December 7, Gen. George A. Lincoln, Director of the Office of Emergency 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 General Lincoln's remarks be printed in the RECORD.

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

REMARKS BY 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 freeze of our economy—and presumably was going to talk about that subject. Now we are in another phase of our economic stabilization program 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 membership 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 program before our country today—the President's new economic program. But I am also going to speak about what may well be the most important National program, in the long

term—our energy program. Our way of life, and our very national strength, are shaped by, and dependent on, our energy program. The two programs, economic stabilization and energy, come together, rather naturally in my mind, because of the job of my part of the President's Executive Office, which is emergency preparedness.

Almost inevitably, where a preparedness mission exists, that mission shapes the actual organization for execution if an emergency occurs. My agency had the field offices, the communications, the experience with coordinating the Federal Government in emergency situations, the experience in quick response—the President gave us the initial stabilization management job.

We were lucky in one way. We didn't have the mental pain of worrying about 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—after 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.

They had as guidance the President's Executive order and the organization chart in our manual on economic stabilization for nuclear war. A week later my national office had doubled, the eight regional offices had expanded to ten offices and personnel had increased sixfold. We had borrowed the services of over 3,000 Internal Revenue Service and Agricultural Stabilization and Conservation offices for our information and compliance net.

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 operations center, 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, has been judged a success. Why? There are at least four good reasons.

1. The Cost of Living Council did involve itself centrally and did provide policy quickly.

2. The teamwork 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 308 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 policy questions.

3. The people and the economy, except for a comparatively few dissenters, supported the freeze. Economic controls must rely on a wide acceptance and voluntary compliance.

4. Our President provided an understanding leadership which all thinking people sought and appreciated. It had become increasingly apparent that our economic affairs needed some pattern of drastic action—distasteful as that type of action may be to some of us educated and raised in the classical tradition of free trade and free enterprise. This action was a necessary choice in the category of "least worst." As you know, the action was a coordinated program to stem our cannibalistic inflations, to reverse our declining international economic situation, and to accelerate our business expansion. These were requisite for our country's continued power, for our people's continued progress.

During the 90 days of hard freeze, we had a coal work stoppage, an energy stoppage, which might have been continual front page news. Though the stoppage was rarely mentioned in the press, it was another high priority worry for my agency, in addition to the worries of administering the freeze. As Chairman of the President's Joint Board on Fuel Supply and Fuel Transport, I had a simply stated directive to administer: there will be no blackouts and no fuel shortages.

Our country sustained a 44-day coal strike without significant shortage of electricity or fuel. We did this, in considerable part, because of a team effort of government and industry which has been little noticed and hence will be little heralded. But I mention that effort here because some who have contributed are here.

The Joint Board assumed, over a year ago, as one of its principal jobs the improvement of the coal inventory situation.

Back at the low point in 1970, eleven percent of our electric power had less than 15 days of coal inventory. The average utility inventory of coal was only 65 days.

When we came to the coal stoppage on October 1, no utilities had less than 15 days coal supply, and in fact none surveyed had less than 39 days. The average inventory was 105 days. Due to the cooperative effort of railroads and the Interstate Commerce Commission, the serious shortage of hopper cars early last year was reduced to an insignificant number. We rode out the work stoppage without a major power or fuel crisis. Due principally, on the Federal side, to the efforts of the Department of the Interior, and the Federal Power Commission, the Joint Board did help 36 utilities and 17 other industries to get coal to keep operating during that 44 day stoppage.

We were prepared for the coal stoppage just surmounted. Our success in handling that stoppage was due to teamwork of industry and government—a teamwork which needs to continue because there will be other short-term energy crises.

As for the coming heating season, our overall estimates indicate that fuel will be adequate. And those estimates for the winter of 72–73 will probably be the same. There will, however, be increasing problems with gas supply which will have to be dealt with by use of alternative fuels.

If fuel and power are not adequate, the blame will be shared by government and industry, probably with the emphasis on industry. Our U.S. public assumes that energy will be provided for their expanding demands. Further, the public tends to assume that the provision can be made without increased cost, even as more stringent stipulations are added as to how that energy is provided.

One of the principal categories for new public stipulations is in the environmental area. Certainly we seek a long-term assurance of a clean environment. But we pay a price in several kinds of coin, one representing actual cost, another in both quantity and timeliness of production, still another in flexibility in utilizing our available energy fuels. Part of the price of energy is now paid for a higher quality environment.

Part of the quality of life has to do with warmth and light and productivity, matters which are centrally dependent on energy.

Our country has traditionally assumed the availability of an abundance of energy fuels, and also an abundance of intermediate energy—electricity. Those assumptions will soon be invalid or at least gravely questioned. This conclusion was impressed on me again by experiences during the 90-day freeze. The intermediate energy industries—the utilities—were not overly upset by a 90-day freeze. Their questions had to do with what came afterwards. They cited the rising cost of fuel and the doubling of construction cost per kilowatt hour due to environmental and other factors. What did I think about longer-range policy on rates? I thought, of course, that the matter was a problem for the Price Commission. I passed the buck. But, stabilization requirements may be inconsistent, in the short run, with our acute energy developmental need.

The utilities financing problem, and the financing requirements for other energy developments are not the only clash helping to generate the energy crunch we may see in somewhere between three and eight years. There are other problems, some of them paradoxical.

Our country has now passed the point where we have the petroleum production capacity in the U.S. to supply our needs. Yet, we are reluctant to develop some of the major prospects we have.

We delay on a pipeline to unlock Alaskan energy with its potential for generating development beyond Prudhoe Bay, when we have been unconcerned about pipelines crisscrossing the lower 48 States.

We worry about tankers from Alaska when there are already over 525,000 oil tankers and barges entering our coastal ports each year, and when we are already bringing over 200,000 barrels a day of crude oil from Alaska by tanker.

We worry about offshore drilling where the oil is, and most of all about the fuel situation. Yet, the alternative is foreign tanker traffic in the same offshore ocean areas and also in our bays and harbors.

We are rapidly running out of a gas supply adequate to meet an expanding demand, yet, we have a well-head price something like a quarter or fifth of the price which enterprising companies are proposing to pay for imported gas. The low domestic gas price, of course, increases demand for gas with a consequent decrease in demand for substitute fuels, such as coal, which are more plentiful.

We have counted heavily on nuclear power to pick up a significant portion of the intermediate energy requirement and, in doing so, check somewhat the rising demand for fossil fuels. But, additional standards and problems of location bring unanticipated costs and delays when time may be an important aspect. Our country has to keep appointments with requirements realities for both fuel and electricity next year and the next, and each year thereafter. Delays could be critical.

We have practically inexhaustible reserves of only one fuel—coal. Yet, we have placed environmental restrictions on its use and are still some years from the applied technology necessary for the needed clean exploitation of this one abundant fuel resource.

Principally because the coal reserves exist and are known, you of the coal industry deal with the brightest aspect of a very sobering energy situation within the mid-term future.

Your industry is doubly bright because you make, and will continue to make, a significant contribution to our exports.

Our foreign trade situation is one of our economic problems generating the team of emergency measures, including the 90-day freeze, which our President presented to the Nation last August 15. I mention it here because one of the usual ways to dismiss the problems of our energy future is to propose to import more oil, and also more gas. Certainly, we will be importing more oil, and also liquid natural gas, but with a consequent negative impact on our balance of payments and not necessarily at a cost significantly less than domestic production.

The estimated prices for imported liquid natural gas makes $20 a ton for coal, if you can meet the environmental standards, seem attractive. Soon, for every ton of coal you do not mine and deliver, we will have to import 20–25 million BTU of gas or oil—and

soon may be paying on the order of a dollar a million BTU's for the imported gas.

We are going over a divide into another energy era. Energy matters will be tough to understand and tougher to manage in that era. Other than some people in industry and some in government there is little comprehension of the problems ahead.

But, why should we expect public comprehension and concern about problems three to ten years down the road, for which preparedness now is necessary, when our press paid practically no attention to the recent stoppage in coal. If it had lasted another six weeks that stoppage could have turned out a lot of lights and stalled a substantial part of the U.S. economy.

Without being alarmist, there is a need to give more stress to information on the coming energy crunch. I do not, by the way, mean the year 2000 or even 1985, which some of my scientific friends prefer to talk about. Emphasis on those dates means emphasis on research money and on not being around to be charged with responsibility when the distant date arrives. I refer to the period from now until 1980 during which many of you here will continue responsibility.

Those fellows planning for the year 2000 or even for 1985, are dependent on those of us responsible for the short term from now until 1975 and 1980 to validate their planning assumptions.

Our total energy problem is a major area of public policy about which our country is only now beginning to be concerned. While not yet past midnight, we may be at the eleventh hour. Only with this Administration did we initiate an overall approach to the problem. Our Administration recognized the need by the President's Energy Committee of the Domestic Council established early last year and his Energy Message last spring.

The Administration has already, to my mind, implicitly recognized that we are traversing a divide into a new energy era by proposing to get the pertinent Federal functions into one Department of Natural Resources. We can no longer afford a dispersed Federal management. And this Administration has moved forward on other measures such as oil and gas leasing and help with coal gasification. But time is running out. The potentially scarce and costly energy future moves rapidly toward us.

I mentioned earlier some of the conflicts among the wants of our body politic. The energy confrontations are severe. We want energy security. We are reluctant to adjust other wants to that criterion. As an example, the more we substitute oil for coal to meet new standards, the less is our energy security in the long run.

I should not close these remarks without a comment on the Mandatory Oil Import Program. The President gave me the job of managing that program about 22 months ago. It has been quite an adventure and has caused me to think often of the actuarial statistics on infantrymen in World War I. Of 100 infantrymen entering combat on a given day, six would still be there on the hundredth battle day. After 22 months of oil battle days, my probabilities are about played out.

But, early in this experience, I came to the conclusion that a surplus of talent and energy was being devoted to attacking, and defending, and—yes—managing the oil import program which is now only a bit over four percent of our energy. The energy problem and program are now an indivisible whole.

The different energy fuels, while not completely substitutable, are very much so and can be made more so with time and technology. More should be done systematically about substitution and preparations for substitutions. None of you here or anywhere else need worry about a market of BTU's. We should think in terms of the great individual energy factors as requiring a single integrated body of policy and program. Those factors, to my mind, are more than the great fuels—coal, oil, gas and nuclear fuel. Both conservation of energy and our environmental programs are also critical to energy adequacy and energy security—and part of the indivisible whole of an energy program.

These remarks have been intended to share with you some of the matters on my mind, matters which are the product of some rather intensive exposure to our country's energy policies and problems. I offer here no solutions but do solicit your thought, your support, and your action in the difficult energy era ahead.

As to that energy era, I have faith that we will work through it successfully, undoubtedly with considerable controversy and some scars. As of now, coal is a bright spot in the cloudy energy future.

RETIREMENT OF HERBERT F. FREEMAN FROM CALIFORNIA BOARD OF EQUALIZATION

Mr. CRANSTON. Mr. President, the executive secretary of the California State Board of Equalization since 1963, Herbert F. Freeman, is retiring from his active duties December 30, 1971. Herb Freeman's leadership of the professional staff of the State revenue agency has gained national and international recognition for achievements in equitable and efficient State tax administration. His excellence as an administrator is further enhanced by the reputation he gained through 27 years with the California Department of Employment where his expertise in management and control of millions of budgeted funds was widely recognized for efficiency and further benefit derived by California's employers and workers.

More recently, Herb's leadership has extended to nationwide proportion through his untiring efforts in the solution of problems in the taxation of interstate businesses. Congress has urged greater uniformity among the several States in tax administration involving interstate business transactions. Herb has contributed substantially to the achievement of greater uniformity in interstate taxation by proposing solutions acceptable to the States and the business community as well. His sound advice and counsel as executive secretary of the California State Board of Equalization and as the president of the National Association of Tax Administrators is greatly acknowledged by tax administrators and business leaders throughout the country.

The California Legislature on September 30, 1971, adopted a resolution commending Herb Freeman, noting that all the people of the State have benefited by his skills, judgment, and dedication. I am certain that all Senators join with me in commending Herb for his great accomplishments and in extending our very best wishes on the occasion of his retirement.

GEOTHERMAL POWER: THE MAGMAMAX POTENTIAL

Mr. GRAVEL. Mr. President, I wish to congratulate Walter A. Zitlau, president of San Diego Gas & Electric Co., and B. C. McCabe, president of Magma Energy Corp. in Los Angeles, for a pioneering decision which may herald an energy breakthrough for the whole country.

Last week, their companies announced that they have signed an agreement to explore in California's Imperial Valley for geothermal hot-water sources suitable for making electricity with the new Magmamax process.

The importance of our geothermal hot water as a source of clean, safe energy could be immense.

A POSSIBILITY FOR HALF THE COUNTRY

The potential electrical power of the steam and hot water under the Imperial Valley alone may be as large as 30 to 90 percent of the entire country's 1970 electrical production, which was 1,540 billion kilowatt hours. I shall return in a few moments to the subject of varying estimates of the potential.

An additional 1,500 megawatts of geothermal steam is available at the Geysers, 75 miles north of San Francisco. That is three times the power of the Hoover Dam.

The potential of geothermal energy in Oregon is estimated by a member of the State geological staff at an additional 20,000 megawatts.

At least 1,000 hot springs have already been located in the Western States, including Washington, Oregon, California, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, and New Mexico. Hawaii and possibly Alaska also have promising geothermal areas.

Large reservoirs of hot water exist along the gulf coast, too.

Famous hot springs in Arkansas, Virginia, and New York may hint at geothermal hot water resources in the East, also.

With advances in deep-drilling techniques, man might be able to tap geothermal energy anywhere on earth, according to engineering professor Robert L. Whitelaw at the Virginia Polytechnic Institute in Blacksburg.

A PROVEN CAPABILITY

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 Iceland.

Good 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 Congress passed S. 368, a bill introduced by Senator BIBLE 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. 1160, dated September 4, 1970. In December 1970 the act was signed by the President into law—Public Law 91-581.

Experience to date indicates 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.G. & E.'s form No. 1, on public file with the Federal Power

Commission, the 1970 operating cost for the Geyser geothermal plants was 3.05 mils per kilowatt-hour. The closest competitor in that system was a 750-megawatt coal plant at 3.35 mils per kilowatt-hour. Nuclear electricity out of the Humboldt plant cost 5.63 mils, and a steam plant at Humboldt cost 8.56 mils.

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 those disadvantages. Instead of flashing the geothermal hot water into steam, the design uses a vapor-turbine driven by isobutane, which is heated by the geothermal hot water via heat exchangers.

DEALING WITH FOULUPS

If mineral deposits can foul up valves and turbines, why will they not 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 silica 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.

A test run on a 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 circulated through a small 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 pressude. There was virtually no corrosion or other trouble.

THE QUESTION OF SALT

J. Hilbert Anderson, who is the principal designer, points out that the geothermal water is not 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% salt. Even if the estimates for the 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 different power estimates postulate 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, desalted, for agricultural and other uses, 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 papers 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, consulting engineer. He will present 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 Looms as Economic Factor."

Mr. President, I ask unanimous consent to have these three items printed in the RECORD at the end of my remarks.

Unfortunately, the figures and diagrams from Mr. Anderson's papers cannot be reproduced here, but they can be requested directly from J. Hilbert Anderson, 1615 Hillock 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 compressors. He has probably designed more compressors and turbomachinery handling halo-carbons and hydrocarbons than any other man in the world today.

He says that when he first presented his geothermal powerplant 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 collected.

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.

ON THE BRINK

Will the cost of geothermal hot-water power be reasonable?

No Magmamax plant has been completed yet. The first 9-megawatt prototype plant, which is planned for Brady Hot Springs, Nev., will cost about $3 million, depending on the cooling system selected. Estimated capital costs for subsequent units are less than for conventional plants of equal size.

The turbine for the Nevada plant is almost ready. Last week's announcement indicates that San Diego Gas & Electric and Magma Energy have confidence. In matters like this, I can understand the excitement of being an engineer. If it all works out, this country may be only months away from developing a major untapped source of clean, safe energy.

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

[To be presented at the American Institute of Chemical Engineers, January 1972, in Dallas]

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 with us for a long time. In Italy the first power was produced in 1904, and in the United States the first power was generated in 1926 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 12 MW 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 been practically ignored as a possible major source of energy. As late as September, 1971, the *Scientific American* (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 32×10^6 megawatts, (1) or 957×10^{15} Btu/year. If we could convert 13% of this heat to power we would produce 4,160,000 megawatts continually. This is approximately ten times the world's present average power output.

Second, if we produced power at a mean rate of 420,000 megawatts (1970 mean world usage rate), neglecting radioactive heat input, and assuming 13% efficiency of 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 all the power we need. 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 energy than of any other conventional fuel source.

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*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 Geysers in California, the latest estimate of proven steam reserves shows that 1500 megawatts capacity could be supplied. At 8000 hours per year operation, this one small area could produce 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. Rex (2) and his associates have estimated that 1.6 to 4.8 billion acre feet of hot water are stored. If we use one percent of this water per year for power production, and return it to the ground for reheating, we could produce 487 to 1462 billion kilowatt-hours per year. The U.S. utilities' toal production was 1540 billion kilowatt-hours in 1970 (3). Another way to look at this is to note that the heat energy stored in about 500 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 1000 hot springs have been located and mapped (5). Bowen and Groh (6) also report large reservoirs of hot water on our Gulf Coast, covering hundreds of square miles. There seems to be no doubt that vast quantities of hot water are available to us, with a total energy content many times 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 if we will find many steam domes such as the Geyser area, but there is more than enough hot water to supply all our needs.

ROOM 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 by the flashing energy of the steam.

2. Low pressure steam turbines are very costly per kilowatt because the specific volume of steam is so high.

3. Thermal efficiency is 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 cone 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 results in precipitation of salts as 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, the many disadvantages promoted our efforts to find a better way to generate power from hot water. We now have a better way. It is called "Magmamax", patents applied for, and opens the door to really large-scale development of hot water power.

The basic principles of the "Magmamax" process are simple.

Hot water heats and boils a separate fluid. The vapor at high pressure expands through a turbine to produce power. The turbine exhaust vapor is condensed to liquid in an air- or water-cooled condenser. The liquid is pumped back to the heater and boiler to repeat the cycle. The cycle is shown in simple form on Fig. 2.

Instead of lifting water to the surface by steam flashing, it is lifted by a deep well pump, and pressure is kept above saturation pressure throughout the heat exchangers.

The fluid used in the first "Magmamax" plant is isobutane. This was chosen for low cost, high thermodynamic cycle efficiency, small turbine size, high condensing pressure and noncorrosive qualities.

Fig. 3 shows the theoretical cycle efficiency for isobutane for 50 psia condensing pressure at various turbine inlet pressures and temperatures. The first plant will operate at 500 psia turbine inlet pressure and 300 F inlet temperature where theoretical cycle efficiency is 19.3%. Actual expected net plant efficiency is approximately 13%.

Fig. 4 shows typical easily obtainable power outputs for a single stage 20 inch diameter radial flow isobutane turbine. Output is many times that for the same size steam turbine, and illustrates why the isobutane turbine can be smaller than a steam turbine for the same power output.

Fig. 5 shows typical water and isobutane heat-exchanger temperatures. At 325 F water supply temperature, the water must be rejected at a fairly high temperature because there is not enough heat available above 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 as much of the heat as possible, large heat exchanges must be used to keep the temperature difference small at the boiling point.

With 450 F water, the heat exchanger 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. Note the large effect of condensing temperature. At 80 F 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 "Magmamax" plant is designed for 325 F water at a rate of approximately 180 lbs/net kw 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 "Magmamax" process depended on solutions to many new problems which cannot be discussed briefly. However, there are three easily observable differences:

1. Hot water deepwell 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 "Magmamax" plant. Needless to say, I would not be writing this paper, if we were not satisfied that these costs are justified.

The "Magmamax" process opens up new horizons for geothermal power by having many advantages over flashing 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 ground with the water discharged from the system.

3. Water reaches heat exchangers at full well temperature. This reduces required amount of heat transfer surface.

4. Water pipes from wells to plant are smaller than steam pipes would be in a flashing 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. No oxygen can enter system. This eliminates one of the greatest potential causes for corrosion.

10. Turbine has lower wheel speeds than steam turbines.

11. High density of isobutane makes economic use of lower condensing temperatures possible. This improves cycle efficiency and reduces water usage.

12. 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, brazed 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 gas leaks from generator. Entire isobutane system will be outdoors.

A new cooling system greatly improves economics of the plant. This reduces evaporation loss, and effectively reduces condensing temperature to a minimum value so as to achieve good thermal efficiency. It also permits coldest condensing water to be used when power demand is highest.

Much study and many new innovations have made the "Magmamax" process possible. We believe it will rapidly replace fuel-fired plants as our major source of electric power.

Best of all, it completely eliminates air and water pollution.

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[Presented at the United Nations Symposium on the Development and Utilization of Geothermal Resources, September 1970, in Pisa, Italy]

A Vapor Turbine Geothermal Power Plant

(By J. Hilbert Anderson,
Consulting Engineer)

The worldwide need for more power, cheaper power, and non-polluting power has stimulated our efforts to develop power from geothermal heat sources. This meeting is real evidence of the great interest in this subject.

In the United States, geothermal power development, started by the Magma Power Company in 1958 at the Geysers in California, has grown into a major power source. With new plants being built and planned, this power field will soon be producing 600,000 kilowatts, and the potential appears to extend well beyond this.

HOT WATER VERSUS STEAM

The success of geothermal steam plants has stimulated the search for other steam fields. Much exploration has shown that there are almost limitless sources of hot underground water available, but very few sources of superheated steam such as the Geysers area. Generating power from hot water is a much different problem than generating power from steam. Many theoretical studies have been made on the problem with different proposed cycles. In Kamchatka, a small plant is in operation, using R–12 as a cycle fluid in a boiling and condensing cycle. (Ref. 1)

After considerable investigation we decided that a boiling, condensing cycle, using isobutane as a cycle fluid, would be the most exonomic one to use on a new plant to be built by Magma Energy, Inc. The general principles and cycle were outlined by Alf Hansen in Ref. 2.

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 condensing temperatures required to attain reasonably good cycle efficiency.

A VAPOR TURBINE CYCLE

The vapor turbine cycle we will use on the Magma Energy plant is shown in simplified form on Fig. 1.* Hot water is pumped from the wells at approximately 325 F. The hot water boils and superheats isobutane to 300 F at 500 psia. 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 heating and boiling heat-exchangers by a turbine-driven centrifugal pump. Waste hot water is returned to the ground.

Expected average net 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 at this time.

SOME ADVANTAGES

The vapor turbine cycle has many advantages over the flashing steam cycle:

1. Using a high density vapor instead of steam permits the use of a much smaller turbine than a steam turbine. Fig. 2 shows the comparative diameters of steam and isobutane turbines for similar operating conditions. The value Q/ND^3 is the dimensionless flow coefficient at the turbine exhaust. 1.62 is a common value for the exhaust end of high flow steam turbines. 0.300 is a reasonable value for radial inflow turbines. For the same flow conditions a steam turbine is approximately four times the diameter of the same capacity isobutane turbine. Ref. 3 explains more fully the effect of gas properties on turbine size.
2. An isobutane turbine operates entirely above atmospheric pressure. A steam turbine usually operates with exhaust under vaccum. Vaccum operation invariably promotes leakage of air and oxygen into the system, which in turn is a major cause of corrosion and maintenance problems.
3. Isobutane is almost non-corrosive. Turbine materials can be low-cost alloys.
4. High molecular weight vapors generally have much less work output per lb. of fluid in the turbine. This makes it easier to design a high efficiency turbine, and these turbines can usually operate at much higher efficiency than steam turbines.
5. High molecular weight vapors in general have a lower expansion ratio from first to last stage than steam. This also makes it easier to design a high efficiency turbine. Cycle efficiency is directly proportional to turbine efficiency.
6. Being smaller, heavy vapor turbine rotors have much less inertia than steam turbine rotors. This reduces maximum coupling torque caused by generator overloads.
7. Turbine tip speeds are generally lower for high molecular weight vapors than for steam turbines. This reduces stress and vibration problems.
8. High vapor pressure and density of isobutane compared to steam permits economical design of turbines for low condensing temperatures, thereby improving practical cycle efficiency over that of steam.
9. Most high molecular weight vapors have lower latent heats than water. This tends to reduce cavitation damage in boiler feed pumps.
10. Many high molecular weight vapors expand through the turbine in the superheat region. This completely eliminates the water erosion problem so common in steam turbines.

SOME DISADVANTAGES

The heavy vapor turbine cycle has its own disadvantages and problems:

1. Available fluids are invariably more costly than water.
2. Heat exchangers are a necessity at both hot and cold end of the cycle. Heat exchangers are expensive.
3. Since fluid is expensive, it is imperative that the system must be perfectly sealed both during operation and shut down.

CHOICE OF FLUID

Many fluids are possible choices for a hot water power plant. There is no one best fluid. In the Magma Energy plan, we chose isobutane for a number of reasons:

1. It has 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 with water temperature of 325 F.
4. The thermal characteristics match the cycle very well.
5. It has good thermal conductivity.
6. Turbine size is small.
7. It is non-corrosive.
8. It is non-toxic.
9. It is low in cost.

The major disadvantage is flammability. Since hydrocarbon handling technology is well known, and this plant will be outdoors, we believe this problem is actually less of a hazard than 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 analogous to the fuel consumption of a combustion power plant. This is primarily a function of water temperature, condensing temperature, heat exchanger design, fluid, turbine efficiency, pump efficiency and cycle design. Obviously these are too many variables to permit easy and complete presentation of plant performance.

However, Fig. 3 shows fairly typical water consumption for an isobutane plant as affected by well water temperature and condensing temperature. Minimum temperature difference between hot water and isobutane was arbitrarily fixed at 16 F. Isobutane boiling pressure was fixed at 500 psia.

These are not necessarily the best operating conditions for all water temperatures. They are fairly close to the conditions chosen for the new Magmamax plant being built.

As would be expected, hotter well water reduces consumption. Note that condensing temperature has a very large effect on consumption. The lower condensing temperatures are typical under conditions where low temperature cooling water is available. The higher condensing temperatures would be typical where cooling towers must be used.

The breaks in the curves occur approximately where minimum temperature difference in the heat exchangers occurs at both boiling and condensing temperature. The effect of this is shown on Fig. 4. This is a temperature enthalpy chart for isobutane, with hot water temperatures superimposed on the chart. If we use a counterflow heat exchanger to heat the isobutane, then this chart shows the temperature difference through the heat exchangers.

Two cases are shown. In our case the water comes in at 325 F and leaves at 179 F. Each lb. of water gives up 148 Btu to heat isobutane. It requires 208 Btu to heat each lb. of isobutane. Therefore 1.4 lbs. of water are required per lb. of isobutane. Going to Fig. 3, water consumption is 165 lbs. per kwh at 80 F condensing temperature. The rate of water usage per lb. of isobutane determines the slope of the water temperature curve. In this case the minimum temperature difference occurs at the boiling point of isobutane.

The other case shown is for 450 F water supply. In this case the water comes in at 450 F and goes out at 96 F, giving up 284 Btu per lb. of water. To heat one lb. of isobutane through the cycle requires only 0.73 lb. of water. Therefore the slope of the water temperature curve is much steeper. Only 64 lbs. of water are required per kwh. Notice that the minimum temperature difference of 16 F now occurs at the isobutane condensing temperature.

It is possible, by variations in cycle design, to reduce the water consumption below that shown on Fig. 3. However, this set of curves is convenient to show what can easily be done with one simple cycle.

ECONOMIC AND ECOLOGICAL SUCCESS

While the theory of the vapor turbine cycle is simple, many new ideas had needed to be added to the basic cycle in order to make it practical and economically sound.

We now feel that all of the major problems are solved, and believe that the new Magmamax 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 paying tribute to the man who stands out above all others in making practical geothermal power a reality in the United States. Mr. B. C. McCabe was the founder of the Magma Power Co. and Magma Energy Inc. Those of us who know him realize that without his vision, imagination, salesmanship, persistence and encouragement, this

*Illustrations not printed in the Record.

paper and what it represents would not be possible.

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[From Oil Digest, January 1971]

GEOTHERMAL ENERGY LOOMS AS ECONOMIC FACTOR

Geothermal energy, perhaps accompanied by the commercially profitable extraction of minerals from geothermal brine, may—in the not too distant future—become a significant factor in the economy of California and other western states where geothermal reserves appear to abound.

Already, in The Geysers area some 85 miles north of San Francisco, steam wells are generating some 82,000 kilowatts of electricity 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 over 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.

Power for the electricity already contracted for by PG&E is being supplied from wells taken down by what is now a joint venture operation formed by Magma Power Co., Los Angeles; Thermal Power Co., San Francisco; and Union Oil Co., of California's geothermal division headed by Dr. Carel Ott. Union Oil is operator.

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 a survey of the geothermal potential of the lower section of California's Imperial Valley, contends that he has located seven geothermal fields with a 1,800 square mile area "bordered on the south by Mexico and on the north by a line parallel to the Mexican border three miles north of Westmoreland, and on the east and west by basement outcrops."

The UC–R professor has repeatedly asserted these steam fields were discovered by geological and geophysical surveys and the drilling of 100 shallow (100–500 feet) temperature-measuring holes as well as from data turned up in dry hole oil wells taken down earlier in the general area. He says these fields have the potential to produce 20,000 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 occurs at the north end of the Imperial Valley in the old salt sink area now occupied by the Salton Sea, "there is no evidence that this highly corrosive salt saturated brine exists outside the confines of the old salt sink."

The normal low salinity, low corrosivity brine found in Mexico's Baja California is also found over almost the entire U.S. section of the Imperial Valley, he stated.

However, some leading California professional geologists, several of whom have conducted 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 was taken from old geological and magnetometer work and tests (about which the UC–R professor has been somewhat vague) to detect water gravity and salinity.

Geothermal operations in the California portion of the Imperial Valley date back to the 1920s, when a few steam wells were drilled and abandoned. Modern exploration and development efforts (which are estimated to have cost between $7.5 million and $10 million thus far) were launched there 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 brine containing large quantities of sodium chloride and small quantities of potash and other compounds.

The geology of the Imperial Valley contains numerous anomalies which are a 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 Daily, may be correct in assuming that the salinity 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 commercial potential of geothermal reserves is the drilling of test wells," commented a prominent California geologist whose judgements are widely respected.

"No real determination 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 25 miles south of Mexicali, the steam produced from 17 wells completely lacks the degree of mineral contaminants which have thus far precluded development of 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. Which field will be drill-tested, he has not revealed, but of the seven fields identified, 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 agriculturists will be eagerly awaiting the results, but only after each field has been tested by completed wells will Dr. Rex's 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. Many of us have not 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 down because of low prices, I 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 his labor and investment. 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 acts on this measure before the conclusion of this session so that farmers will receive the help they so badly need this year. The measure would 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 detailed in this study 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 direct 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 what the United States Department of Agriculture parades as "efficiency." The NFO County Progress Reporter of November 1971, 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 at this point.

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 Northwestern University sociologist, told the Iowa Housing 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 going much further than just recommending a "decent burial" for small towns in rural America.

They are trying to bring it about, sometimes using public funds.

PROMOTES HUGE FARMS

The Department of Agriculture has just issued a new research report trumpeting its documented discovery that 5,000-acre corn farms in Iowa are the most economical; much more so than 500-acre corn farms, or even 1,000-acre corn farms.

Why? Because they are able to go around the small town merchants and distributors and buy fertilizer, chemicals, machinery, oil, gasoline, and other supplies direct from the manufacturers or central distributors. The study says that they can buy at savings up to 20% over small farms with less volume.

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 that conclusion. And now more thousands of dollars in public money is being spent to distribute the "study" and tell the world that small farms are less economic than giant 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 farm families will be displaced.

Nor are there any statistics on how many small town business establishments will be made surplus and put out of business by such a shift in farm size.

The study gives pointers on management practices for the big operations. It gives no solutions to the problem of finding a place in our society for the people put out of business, including the farming business.

SMALL-TOWN BUSINESS

The whole thrust of the new USDA study is aimed directly at the "inefficiency" of the rural community marketing structure. That means the implement dealers, hardware stores, gasoline tank truckers, local banks—all the people who are supported by the patronage of the family farm.

A Senate subcommittee was told this month that an average of 2,000 farms a week are closed out. For every six farm families 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 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 know the difference between a "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.

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 wheat and feed grains, H.R. 1163 also directs a mandatory 25-percent increase in the loan values for wheat and feed grains for both the 1971 and 1972 crops. Farmers need this help now. Senate Joint Resolution 172, which I and other Senators introduced in early November also called for such an increase in the 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 program for feed grains and initiation of an additional acreage diversion payment program for wheat in 1972. Enactment of both the strategic storable commodities reserve bill and these provisions of Senate Joint Resolution 172 would result in no additional costs 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. President, Chairman TALMADGE has given me such an assurance. We are extremely fortunate to have the very able and dedicated gentleman from Georgia as our committee chairman. 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, will continue to seek 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 Tad Szulc, reported that the United States and Portugal had negotiated a new agreement regarding future 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 our constitutional processes be followed. 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 to the Senate for 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. Szulc'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 regarding the future use by the United States of air and naval bases in the Portuguese Azores. It was further reported that the United States would furnish Portugal with economic aid in return for the use of the bases.

While not 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 of 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 the use of the treaty process. It is unfortunate that American forces have been in the Azores since World War II only on the basis of executive agreements, but this past oversight in no way justifies the enactment of a new agreement without comforming to our Constitutional processes.

Similarly, the Executive has the right to discuss with any foreign government the furnishing of foreign assistance, but the Constitution clearly establishes that the Congress must appropriate (and hence authorize) the funds to institute such a program. Congress has provided the President with certain discretionary authority to make changes in the allocation 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 not a matter on 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 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 1961 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 wars in the Portuguese colonies. *The New York Times* said this morning: "The loans could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because of the need to import foodstuffs in part because of the war against the guerrillas in Angola, Mozambique and Portuguese Guinea."

This additional complication is an added reason for the Executive Branch to seek the advice and consent of the Senate before final action is taken on the reported agreement with Portugal. I am confident you will agree and I await your affirmative response.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

[From the New York Times, Dec. 9, 1971]

UNITED STATES AND PORTUGAL TO SIGN AN AZORES PACT

(By Tad Szulc)

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 1,000 miles west of Portgual in the Atlantic on Sunday to meet President Pompidou of France and Portgual's Premier Marcello Caetano. The pact provides 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 officially described as "the courtesy of the Portuguese Government."

Officials said that the present plans were for Secretary of State William P. Rogers and Portugal's Foreign Minister, Rui 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, the final touches on the agreement were being worked out there today.

The headquarters of Iberlant, the Western Command of NATO, have been in Lisbon since 1966.

The original Azores agreement, signed in February, 1948, 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."

BAN ON USE IN AFRICA

State Department historians said records showed Portugal as the only country receiving no economic aid from the United States in connection with a military-base agreement.

However, Portugal has received military aid, although by agreement American arms are not used by the Portuguese against guerrilla rebels in African territories.

This year, officials said, Portugal indicated she 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 an oceanographic vessel for fishery research.

RESENTMENT IN LISBON

The food could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because the need to import in part because of the war against rebel guerrillas in Angola, Mozambique and Portuguese Guinea.

The two countries did not renew the Azores agreement for nine years chiefly because of the Portuguese resentment of the United States anticolonialist policies in Africa.

Portugal's new leadership under Premier Caetano, who replaced the late António de Oliveira Salazar, appears to be more pragmatic on this point and it is said to believe that the Nixon Administration is less outspoken in favor of African nationalism than its predecessors.

The United States facilities on the islands are an airbase at Lajes, under joint control with the Portuguese, and port facilities at Praia da Vitoria.

The military opinion in Washington is that the facilities are important but not vital to United States and North Atlantic defenses.

USEFUL REFUELING STOP

The Lajes air base remains a useful refueling point in the Atlantic. It served as a support point for wartime trans-Atlantic flights and, later, as a transit area for troops being airlifted to Western Europe, Berlin, Lebanon and the Congo.

There are about 1,500 American servicemen and 2,000 dependents on the Azores. About $12-million is put into the economy by the American military expenditures.

When Portugal agreed to the Nixon-Pompidou meeting on the Azores, Premier Caetano offered to serve as host to the two men. He will entertain them at a dinner on Monday and hold a separate conference with Mr. Nixon.

The Azores conference will be the second set of consultations for Mr. Nixon with allied leaders before his visits to Peking and Moscow next year.

He conferred with the Canadian Prime Minister, Pierre Elliott Trudeau, on Monday and is to hold meetings with British, West German, and Japanese heads of government.

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 in Seattle. The report detailed the severe economic conditions afflicting the Seattle area and the attempts by local people on a volunteer basis to meet their hunger need. 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 Wednesday's 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 was 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 comply speedily 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 BUTZ DEMONSTRATE HUNGER COMMITMENT BY COMPLYING WITH FEDERAL COURT ORDER ON EMERGENCY FOOD HELP FOR SEATTLE

Senator George McGovern (D-SD), chairman of the Senate Select Committee on Nutrition and Human Needs, today urged Agriculture Secretary Earl Butz 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 hunger programs. The Secretary personally 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 Nixon's pledge to eliminate poverty related hunger and malnutrition in this Nation.

"Since the President's historic "Hunger Message" on 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 goal. I will energetically work 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 concern and commitment to ending hunger in America than by reversing the Department's previous position denying emergency food aid to Seattle."

McGovern cited a recent staff report by the Select Committee, "Seattle: Unemployment, the New Poor and Hunger," which fully 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 Distribution Program could be of vital assistance in alleviating the area's nutritional needs. The Agriculture Department has ample foodstuffs available and has clear legislative authority to approve the State of Washington application to operate a Direct Distribution Program concurrent with the Food Stamp Program in the Seattle area. The Agriculture Department has taken the position that it does not intend to approve such an application for 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 foods program, providing families did not participate in both programs simultaneously and the state or county paid the additional administrative cost.

Earlier this year, Washington State officially applied to the Agriculture Department for a surplus foods program for Seattle and two other counties that already have food stamp programs. The state cited the severely depressed economic conditions as necessitating the additional emergency food aid.

The Agriculture Department took the position that it was not required to implement the provision of the new Food Stamp Act permitting the operation of both programs, and furthermore, that Seattle didn't qualify anyway.

United States District Judge William

Beeks, in his decision issued in Seattle yesterday, said:

Dual operation of the two programs was authorized in 1971 for situations other than floods, hurricanes and the like.

Congress clearly intended that in areas experiencing severe economic hardship, dual operation should be permitted. . . .

Large numbers of the poor are finding it impossible to obtain adequate nutrition under 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 rate the highest in the nation for a metropolitan area and where thousands have exhausted their unemployment compensation, then the act has been rendered nullity.

Judge Beeks 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 presents a plan for distribution of commodities which otherwise satisfies the guidelines established by the regulations, the Secretary must approve the plan.

The courts may enjoin federal administrative action or inaction when it is violative of legislative enactment.

Clearly relief is warranted in the exceptional circumstances in this case.

Finally, McGovern, 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 use every weapon in its arsenal to eliminate hunger in the country," McGovern said. "In recent years, the problem of hunger, once only associated with the object poor, has begun to hit the millions of newly unemployed working people."

"These 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. 18, 1971]

JAPANESE FOREIGN AID SENT TO "HURT, HUNGRY"—IN TROUBLED SEATTLE

SEATTLE.—Stunned by the federal government's refusal to start a free-food program to ease Seattle's growing hunger problem, the city has found help elsewhere: foreign aid from Japan.

Last week, Seattle's Japanese "sister city" or Kobe shipped a planeload of 1,000 pounds of canned food and rice noodles to Seattle. Collected by Kobe's Christian community, the food was sent through the Kobe YMCA as a gesture of friendship to the thousands of Seattle residents who face hunger as their unemployment benefits run out.

Seattle unemployment has been running at about 13%, the highest in the nation, largely as a result of Boeing Co. layoffs.

The food is being distributed by Neighbors in Need, a church-sponsored, privately operated food bank program that has been relying on community donations to help feed the unemployed who can't qualify, or who can no longer afford the federal food stamp program.

The Rev. Bryce Little, a spokesman for the Seattle group, called the Japanese aid a "very meaningful contribution" and a "symbolic expression of concern by the Japanese people for the people here who are hurting and hungry." He said Neighbors in Need is operating 36 free food banks in the Seattle area alone, where it currently dispenses about $10,000 a week in food to some 15,000 needy individuals.

JAPANESE SEND FOOD TO JOBLESS IN SEATTLE

(By Nick Kotz)

Unemployed residents of Seattle, Wash., began receiving foreign aid donations from Japan this week. At the same time, a federal judge said the U.S. Agriculture Department has 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 offered the food to Seattle as a gesture of friendship after learning of the city's massive unemployment problem and of the unwillingness of the U.S. government to distribute surplus food under the commodity distribution program. The Japanese food is being distributed by Neighbors in Need, a church-sponsored privately operated food bank program.

On Tuesday, U.S. District Judge William Beeks 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 McGovern (D-S.D.), chairman of the Senate Select Committee on Human Need, 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 critical of food aid programs.

An Agriculture Department spokesman said yesterday, however, that the department has not yet decided whether it will accept the court ruling and 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 state, county, and city officials and the state's congressional delegation. The officials also unsuccessfully presented their case to John Ehrlichman, a former Seattle attorney and now the President's assistant for domestic affairs.

They pointed out that 106,000 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 "Seattle: Unemployment, the New Poor, and Hunger," said that thousands of engineers, technicians and other normally well paid employees had too much in assets to qualify for food stamps. Others couldn't afford to pay for stamps after making payments on 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.

Judge Beeks ruled that the Agriculture Secretary had acted unlawfully by establishing national policy against permiting any county to operate both food programs. In the Seattle case, the judge said the Secretary's action was "arbitrary and capricious and an abuse of discretion.

"Congress clearly intended that in areas experiencing severe economic hardship, dual operation (of food programs) should be permitted," Judge Beeks said. "Large numbers of the poor are finding it impossible to obtain adequate nutrition under the food stamp programs because their net incomes are too low to afford food stamps.

"If dual operation cannot gain approval here with the unemployment rate the highest in the nation for a metropolitan area and where thousands have exhausted their unemployment compensation, then the (Food Stamp Reform) act has been rendered a nullity."

Mike McManus, director of Operation Hunger, a Seattle program soliciting voluntary food aid for the unemployed, told the Senate committee that "the community simply has run out of the ability to give."

ADDRESS BY SENATOR CHURCH AT 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 1970's.

Mr. President, Senator CHURCH's address should be shared by those who could not hear from him 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

Some of you here today may remember what John F. Fogarty said just before the 1961 White House Conference.

Even though it was his legislation that called for the Conference, Congressman Fogarty was worried.

What good would the Conference be, he asked, if it resulted in little more than an increase in the output of words?

Well, you already are inundated with words. I understand many of you have just come from 16 different special-concerns sessions where—for four hours—you tackled

problems as varied as long-term care, the elderly blind, minority group needs, and consumer interests.

I have more words for you, but only 15 minutes worth. The planners of this particular part of the Conference must have sensed that this would be a good time for a short talk.

And this is good because it encourages me to line up my thoughts and to choose those key facts that may fit in here just before you write your recommendations.

What, then, is my major message today?

I think it can be summed up very readily.

To put it bluntly, I think we are falling behind—not advancing at all—in our national effort to assure genuine security and fulfillment in retirement.

That may be a shocking statement, but it is based upon hard facts of 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 a budget request for the Older Americans Act that was actually lower than for the previous year, members of the Committee on Aging—Republicans and Democrats alike—took up the fight, restored the proposed cuts, and actually increased the appropriation to almost 45 million dollars.* That sum is less than half as much as we'll contribute this year 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 first one, Arthur Flemming was appointed full-time chairman of this Conference, and later Secretary 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 agree 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 such 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 5 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 line!

I've described just a few conflicts between Congress and the Executive Branch—not in the name of partisanship—but to help explain why I think our present national effort is lagging. I believe that the recent Democratic Administrations—despite Medicare and the Older Americans Act—failed to go far enough and must share their part of the responsibility for today's inadequacies. 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 expressed in our latest Pre-White 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 aging, there is really no room for a "game plan" based upon short-range 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, in the Older Americans Act of 1965, said that one of its goals was an adequate income for the elderly. And yet in the past two years, 100,000 *more* elderly persons throughout this 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 6 million older Americans live in unsatisfactory quarters. Only about 350,000 Federally-supported units have been built in the last 10 years. How do we catch up? And what do we do about property tax increases 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." Their unemployment will be far longer than for younger persons. Their pension benefits and Social Security of the future will be far less than might have been. The Committee says that a new 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, in rural and urban 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 swamped by the needs of today, 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. Think of that: tens of millions of 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 adequate response?

I think you know my answer to that question. Despair never solved anything. Game plans, if they merely stall 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 1970'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 this Conference are implemented in the *early* part of the 1970's.

What I mean, too, is that we should be unafraid to question even our most self-satisfied assumptions, ranging 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 is ready to question and discard many sacred cows that have already lived too long.

We have questioned a foolish, futile war, and though its termination is slow, it is now inevitable.

A few weeks ago, the Senate questioned whether foreign aid is really serving our nation and others in the ways that it should and we have gone back to the drawing boards in search of needed change.

We are questioning our attitudes toward racial minorities and we are finding much to question in our use of our land, our water, and our air.

Now we must ask questions about the very health of our nation and the well-being of each and every citizen of 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.

So let us respond to the dynamics of this Conference and to the needs, hopes, and just demands of those who built this country, her senior citizens.

*1971 FY Funding: $32 million; Administration request for FY 1972, $29.5 million; final FY 1972 appropriation $44.75 million, or $15.25 million more than the budget request.

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 since 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 the 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 economic aid would be cut off unless we could be completely assured that such assistance was entering both parts of the country.

Mr. President, I urged such a policy on our Government. The reaction was not only a continuation of one-sided economic assistance but the resumption of arms deliveries to the Government of West 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 taken a benevolent attitude toward the Pakistani 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 exercise any legitimate moderating influence on the Government of Pakistan. No amount of explanation of actions after the fact by the administration seems to be 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 Bengali refugees began to stream into India, the Pakistani situation became an international situation. At that time, the matter should have been brought before the United Nations. Because of the failure to take that step or any other action to cool off the situation, we saw another inexorable 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 impelled to even greater efforts to divert the course of events.

It is never a good moment for mankind when the forces of one nation invade another. Yet this has happened now with both India and Pakistan constrained to fight a war on two fronts. The old wounds in Kashmir have been brutally torn open.

We can regret the Indian invasion. But simply to regard the invasion as an isolated event is ridiculous. Yet that administration stands 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 active role for peace. Instead we see an administration which prefers to sit on the sidelines, apparently because it recognizes that direct American military intervention is impossible.

We should, both unilaterally and through the United Nations, seek an immediate cessation of hostilities. Let those in the United Nations who wish to assume 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 against a constructive proposal. And instead of a policy of petulance and partiality, we should use our considerable influence to bring all parties to a ceasefire 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 outcome 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 expect 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 relief supplies gets through to those in greatest need—refugees and victims of the cyclone. And we need to push for the immediate release of foreign nationals 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 failings in our own policy 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 November 3, 1971, I introduced S. 2809, the Drug Abuse Research and Education Act of 1971. That bill was the product of extensive research and consultation with drug abuse experts throughout the country.

Two weeks ago I reintroduced that legislation as a floor amendment to S. 2097, the comprehensive drug bill which was being voted on by the Senate. During those days a large number of academic and professional persons working in the field of drug abuse wrote to me expressing their strong support for S. 2809 and offering many helpful comments about its potential as an aid in the fight against drug abuse.

During the debate upon my amendment on the floor, a number of my colleagues urged that I refrain from bringing it to a vote at that time because of the many difficulties they had encountered in arriving at a bipartisan compromise on S. 2097. 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 hearings on S. 2809 in the coming year.

In view of that consideration, and in order to allow a prompt vote on S. 2097, I agreed to withdraw the amendment and to work with Senator HUGHES to develop productive hearings on S. 2809 early next year.

Mr. President, since that time a large number of drug abuse experts have continued to communicate their very strong support for my bill and I believe their comments will be most useful in analyzing the merits of this legislation. I therefore ask unanimous 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 MEDICINE,
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. 2809. The need for research funds, for the multidisciplinary character and for extended support of investigators in the drug abuse field is much to the good.

Sincerely,

ELI ROBINS, M.D.,
WALLACE RENARD,
Professor and Head of the Department.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 6, 1971.

Hon. JOHN TUNNEY,
Senator from California,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I was delighted to receive your letter and have read with great interest the speech which you gave on November 3, 1971 recommending the Drug Abuse Research and Education Act of 1971.

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 treatment in psychopharmacology. Your suggestions that these be regional centers strike me as very sound, and I have no objection to their being organized under the auspices of the National Institutes of Mental Health.

What concerns me, of course, and I'm sure it does 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 addiction especially have become so deeply entangled in legal issues and law enforcement is most regrettable, and it seems to me very essential that continuing efforts be made to understand the psychiatric and socio-cultural aspects of drug taking and to get away from the punitive approach. On the other hand, it is naturally of great importance to control and regulate the use of drugs, and particularly the mind-affecting drugs, since their wide-spread and indiscriminate use for other than specifically therapeutic purposes could have most serious consequences.

In short, I congratulate you on your courageous efforts and will do what I can to lend support to your proposals.

Sincerely yours,

PETER F. OSTWALD, M.D.,
Professor of Psychiatry.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 6, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: This is in reply to your letter of November 18, 1971. I am sorry I have not been able to respond to this sooner due to my being away from my office. It may be too late to comment on your proposal but, nevertheless, my comments are as follows.

Needless to say, the problem of drug abuse is certainly a current and popular one and affects a great number of people, especially in our urban centers. The reports from large cities as far as addiction and death associated with narcotics are frightening. Therefore, your efforts in this area are timely and long overdue. Your humanistic concern in these and associated problems has been known and respected.

I have studied your proposal S. 2809 and have discussed it with colleagues at the institute. We all agree that funds to support personnel will stimulate scientists in this

area. It will also stimulate the development of new people to become interested in this area. It will provide good research as expected from good people that may offer increased knowledge concerning basic mechanisms. It will also provide clinicians to develop services for people suffering from this affliction. This provision would secure whole hearted support.

There is some question I would like to pose for your consideration concerning the development of six national centers devoted particularly to drug problems. I have serious questions about providing centers for categorical services. For example, children are poorly served in this country, and yet we have comprehensive mental health centers, mental retardation centers, and crippled 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 services on the basis of addiction or abuse of drugs, I think, falls into the same category of fragmentation in training, service and research.

There are a number of centers throughout the country who have secured research funds or have utilized their own budgets to develop research and service in this area. In our Langley Porter Institute there 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 reduced some of the difficulties posed by the development of fragmented services and research, and 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 problems. You certainly were very helpful to us.

Sincerely yours,

IRVING PHILIPS, M.D.,
Clinical Professor of Psychiatry.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 3, 1971.

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, one-shot, crisis-oriented drug abuse education and prevention efforts must be superseded by more mature, long-term, multi-disciplinary efforts, but you will perhaps be pleased to hear that independently, we have developed a collaboration between departments and campuses of the University of California to form what might be called, in your wording, "a center of excellence" here in California.

October of this year, we submitted for consideration by the National Institute of Mental Health (N.I.M.H.), a grant proposal titled, "UCSD–UCSF Drug Abuse Training Program." Support is requested in the amount of $2,536,325 for a period of 3 years. This is a coordinated 2 campus training effort involving the San Francisco and San Diego campuses to establish a comprehensive Drug Abuse Training and Education Center—primarily for Health Science personnel.

One of the phases of your bill describes almost perfectly what we are attempting in this inter-campus collaboration. We have 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, continuing education 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. Multidisciplinary efforts will be well embedded within a matrix of model, ongoing drug abuse treatment programs. The clinical settings to be used for training will include the Narcotics Treatment Program at UCSD, a multimodality program with over 400 patients in treatment currently including 60 patients now at the new 350 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 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 nine campuses of the University of California. At that time, the University leaders agreed that San Francisco was the ideal location for a University-affiliated agency which would attempt to combat the growing drug abuse problem in California and the United States by providing comprehensive, multidisciplinary services to the community. National experts are available as consultants on our campuses in the following fields: Basic and clinical pharmacology; toxicology; neurosciences including neuromolecular biology; biochemistry, cultural anthropology, sociology, community organization and health delivery systems, epidemiology, clinical program development and evaluation; clinical psychiatry; psychology, psychopharmacology; drugs abuse treatment modalities, paraprofessional training and other academic subspecialities. 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 enjoy increasingly greater 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 Information Project, would be the best persons from our campus to meet with you or your staff in Washington or San Francisco. I shall, of course, be pleased to be of further assistance in any way possible.

Sincerely,

R. M. FEATHERSTONE, Ph. D.,
Chairman.

D. E. SMITH, M.D.
D. J. BENTEL,
D. Crim.

CENTER FOR ADVANCED STUDY
IN THE BEHAVIORAL SCIENCES,
Stanford, Calif., December 1, 1971.

HON. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of November 18th regarding your proposed S. 2809. It is a far-sighted and excellent bill, and I will urge its support by the relevant Senators, including Senators Scott and Schweiker, from my home state.

Sincerely,

ALBERT J. STUNKARD, M.D.,
Professor and Chairman, Department of Psychiatry, University of Pennsylvania.

BOSTON UNIVERSITY
SCHOOL OF MEDICINE,
Boston, Mass., December 2, 1971.

Hon. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18, 1971. I'm sorry that it has taken so long to answer it but I've been away from my desk for a number of days.

I have read S. 2809 with much interest and I'm 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 heartily in accord with. The idea of establishing centers of research and training in the field of drug abuse is one which I have supported for a number of years both as an old hand in the field and as a member of, and then chairman of, the Scientific Review Committee (Study Section) of the Center 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 looking to the establishment of such a center 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 with the plan to develop a career scientist 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 reached more readily.

In the first place, I am opposed to the concept that centers such as those outlined in your proposal should be considered on a regional basis. There are too few scientists 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 far better to have three or four centers tied up to existing university departments that are known to be good at the present time and that can be improved significantly. In this way Peter would not be robbed to pay Paul and our present meager resources of brainpower and activity in drug abuse would not be stretched to the breaking point. Besides, I do not think that the funds that are contemplated in S. 2097 are sufficient to realistically 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 expending three or four existing facilities such as those at the University of Kentucky (and the ARC in Lexington), the University of Michigan, Stanford, U C San Francisco, Chicago, U C San Diego or even here at Boston University, to name just a few, than by starting regional

centers *de novo* and competing for knowledgeable scientists, for trainees and for monies.

In addition, although I am certainly in favor of the idea of supporting established and reputable scientists with career awards, there should be a mechanism for the training of post-doctoral fellows and of graduate students in the field. Since NIH has so drastically cut graduate and post-graduate training support, there are few sources for funds to carry out this function which is so essential for the continuation of research and education. I would suggest fewer career awards and much more money for training of young professionals who would later, after proving themselves, be eligible for the career awards. Without graduate and post-doctoral students there will be 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 administrative overlap can only hinder rather than help. I join with the entire scientific community in urging, as we did recently with reference to Cancer research, that further 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. 2809. On the contrary, I am heartily 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 dependence-producing drugs must be forthcoming on a permanent and meaningful basis because it is essential to the solution of the problems of drug abuse. I am also heartily in favor of a multidisciplinary and interdisciplinary approach and of support of centers that foster such an approach. The questions 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,
Boston, Mass., December 3, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I very much appreciated your letter of November 18th regarding your plan to introduce a bill (S 2809) to authorize the setting up of a series of regional centers 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 Commission on Marihuana and Drug Abuse makes it necessary that I not express myself too specifically about issues that may need a good deal of study in balancing the various pressures from well-meaning but competing groups. With the Special Action White House group under Dr. Jerome Jaffee, the NIMH and other units in H.E. and W., the American Medical Association, and its state and local societies (in which I am also active), and the forthcoming program being developed by a combination of private foundations there will be much balancing and weighing of alternatives to be done. At the same time this process should not be so prolonged as to delay seriously plans to solve the problem.

At this time, therefore. I will only express keen interest and general support for the concept of S. 2809 and 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 program you envisage is sufficient. But, there has to be a beginning somewhere.

I am most gratified at your interest in this major problem of our time and look forward to being more helpful.

With best wishes,

Sincerely yours,

DANA L. FARNSWORTH, M.D.,
Consultant on Psychiatry.

NEW YORK MEDICAL COLLEGE,
New York, N.Y., December 1, 1971.

Hon. JOHN V. TUNNEY
U. S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of November 18, 1971, and the attached reprint from the Congressional Record, Vol. 117, November 3rd, which contains the text of S. 2809, and your remarks explaining its provisions.

Let me say that I am in whole-hearted agreement with the proposed bill and your very pertinent and informed remarks on the urgent need for multidisciplinary regional centers of research and education in drug abuse and career awards in drug abuse research and education. I believe that your proposal represents an absolute *minimum* of what is needed if we are not to be submerged in a morass of crime and the disintegration of our cities.

In thirty years of teaching and research as a full-time member of this medical school, and seventeen consecutive years as Chairman of the Research Committee of this Medical Center, which encompasses Flower-Fifth Avenue Hospitals, Metropolitan Hospital and the Bird S. Coler Home and Hospital of the City of New York, I have been exposed, at closest range, to the ravages and growing menace of drug abuse and its tragic sequelae of crime, disruption of family life, and destruction of valuable human beings. Our Institution has, for many years, been in the forefront of those trying to combat the scourge of drug abuse with both research programs and clinical services in the area of alcoholism, during addiction, and drug abuse in general. Unfortunately, such valiant efforts are woefully inadequate to stem the strongly rising tide of this terrible problem. Needless to add that I enthusiastically support your amendment to S. 2097, and that I wish you the best of luck and success in your vital efforts.

If I can be of any further assistance, please do not hesitate to call upon me.

Sincerely yours,

DAVID LEHR, M.D.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 2, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I have today sent the appended letters to Senators Hughes and Javits. I hope your bill enjoys the wide support it deserves.

With best wishes for the holiday season,

Sincerely,

JERE E. GOYAN,
Dean.

DECEMBER 2, 1971.

Hon. HAROLD E. HUGHES,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: Senator Tunney forwarded to me a copy of the Congressional Record of November 3, 1971, describing Senate Bill 2809, The Drug Abuse Research and Education Act. As chairman of the Alcoholism and Narcotics Subcommittee, I know you have a great interest in this bill, which I share. Both faculty and students in our school have been active in the San Francisco Bay Area community working with adult groups, youth groups and schools in drug abuse education since the germination of the "Flower Children" in the spring of 1967. Though the response by the community has been enthusiastic, there has been an obvious need to establish a long-range national commitment in drug programs. Through the Act's proposed "Regional Centers," young health professionals and paraprofessionals 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 "multidisciplinary character" of the programs has my enthusiastic support. The many conferences and symposia held on this campus and the many treatment modalities being developed in drug treatment programs in this community and throughout the country all point to the necessity and value of participation and commitment of individuals in many disciplines. At the present time, the University of California, San Francisco, Schools of Medicine, Nursing and Pharmacy have been working with the University of California, San Diego, Medical School on a grant proposal which places into effect virtually all of the concepts included in this Act. Should this grant proposal be funded, the depth of talent focused on the drug abuse problem would be enormous. The output from this group is potentially outstanding, including the production of health professionals dedicated to the solution of drug abuse problems (Such individuals would be natural candidates for the career awards, which are part of S. 2809.) In addition, the School of Pharmacy is presently being considered as a site for the testing of interdisciplinary student drug abuse programs through a grant administered by the Student American Pharmaceutical Association. (We also have a joint program with Hastings Law School, which brings students of the law together with pharmacy, medical and nursing students in an interdisciplinary study of drugs and their sccietal impact.)

This Act, if passed, potentially can tie all similar programs and concepts together, resulting in more useful services in the long run for the population as a whole and more specifically for our youth and the individuals returning from the military throughout the world who may have related problems.

With your keen interest in this field, I am sure you will be supporting the Act. I have written this letter more with the intent of apprising you of the present level of thinking in our program, that it parallels the Senate's diligent work in this area, and that should this Act receive full support, it will be received and developed by those in the field with enthusiasm.

With best wishes for the holiday season,

Sincerely,

JERE E. GOYAN,
Dean.

DECEMBER 2, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate, 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 Senate Bill 2809, The Drug Abuse Research and Education Act. As the ranking Republican on the Alcoholism and Narcotics Subcommittee, I know you have a great interest in this bill, which I share. Both faculty and students in our school have been active in the San Francisco Bay Area community working with adult groups, youth groups and schools in drug abuse education since the germination of the "Flower Children" in the spring of 1967. Though the response by the community has been enthusiastic, there has been an obvious need to establish a long-range national commitment in drug programs. Through the Act's proposed "Regional

Centers," young health professionals and paraprofessionals 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.

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With best wishes for the holiday season,

Sincerely,

JERE E. GOYAN,
Dean.

MASSACHUSETTS
INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., December 3, 1971.

Senator JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for sending me a copy of your bill S. 2809. I am in full agreement with its purpose and would like to see both provisions, for research centers and for research career awards, incorporated into the final legislation. I would recomend, however, that the "centers of excellence" be located where they can function best in terms of resources rather than by regional considerations.

Let me add, however, that I am seriously worried by the provisions of S. 2097, which would put into the hands of the Special Office Director some powers that could be misused (not by Dr. Jerome Jaffe but possibly by some successor). The National Institute of Mental Health should be the basic authority. I distrust a Director's Office backed by a Strategy Council (Sec. 301 a 3) including the Attorney General, the Secretary of State, the Secretary of Defense, etc. The problem with drug abuse in this country is repressive legislation and I am afraid S. 2097 will ultimately be used to prevent changes in that legislation.

Respectfully yours,

S. E. LURIA.

THE ROCKEFELLER UNIVERSITY,
New York, N.Y., 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 this 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 decentralized administration in order to adapt the programs to local conditions. 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 this research. A creative, multidisciplinary 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 the context of established university departments and that money would be best expended by making available generous, long-term grant support for research by individuals of demonstrated ability, with research support for younger investigators.

I appreciate the effort that you are making to bring support to this urgently needed research.

Sincerely yours,

VINCENT P. 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 18, 1971, address 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 and education, as well as treatment of individuals who are drug dependent and drug addicted, since 1964. Because of my experience and interest Dr. Noyes asked that I evaluate the Drug Abuse Research Education Act of 1971 which you sent him.

I have read carefully the proposal 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 through countless agencies with the results that the bureaucracy is consuming a significant percentage of the money before it actually reaches productive results.

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. BITTLE, M.D.,
Assistant Professor of Psychiatry.

THE UNIVERSITY OF WISCONSIN
MEDICAL CENTER,
Madison, Wisc., November 30, 1971.

JOHN V. TUNNEY,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TUNNEY: I appreciate your having kept me informed about The Drug Abuse Research and Education Act, October of 1971. The concept of regional multidisciplinary centers of excellence is appealing since it points toward long-range goals and hopefully to finding ways of prevention. Although your definition of drug abuse is not broad enough for my outlooks (mind-altering drugs other than controlled substances can be involved) I am pleased to lend support to your effort and I am writing to Senator Hughes and to Senator Javits concerning it.

Sincerely yours,

JOSEPH M. BENFORADO, M.D.,
Assistant Clinical Professor of Pharmacology and Medicine.

UNIVERSITY OF CALIFORNIA,
San Francisco, November 29, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your note of November 1, and the copy of S 2809.

I write to indicate my enthusiastic support of the development of centers of excellence in the fields of drug abuse and alcoholism. While not demeaning the sincerity and devotion of the efforts now underway in the treatment of these disabilities, it is perfectly clear that the present state of our knowledge dooms our efforts to relatively puny success.

In the absence of significant advances in our understanding of the cause of these important diseases, we will be trapped in an ever increasing spiral of costs for a relatively low yield. It is not a farfetched analogy to equate our present capability of dealing with these disorders with the iron lung and supportive therapy of our treatment of poliomyelitis.

Sincerely,

JULIUS R. KREVANS, M.D.,
Dean.

VANDERBILT UNIVERSITY,
Nashville, Tenn., December 2, 1971.

Hon. JOHN TUNNEY,
U.S. Senate, Washington, D.C.

SENATOR TUNNEY: I think the bill you are introducing, S. 2809, makes a very important addition to efforts toward getting the basic information we need to solve the alcoholism and drug abuse problems. If properly administered, centers of excellence can be a very effective way to support research and training. Research awards to individual investigators also are a useful mechanism to support the careers of individual investigators in given areas. I have written Senators Hughes, Baker, Brock, and Javits to this effect.

I think it is of critical importance that these things be done.

Sincerely,

JOHN M. DAVIS, M.D.,
Professor of Psychiatry, Associate Professor of Pharmacology, Director, Clinical Division, Tennessee Neuropsychiatric Institute.

THE UNIVERSITY OF NEW MEXICO,
SCHOOL OF MEDICINE,
Albuquerque, N. Mex., November 30, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I have recently become aware of S. 2809, a bill designed to encourage the development of regional drug abuse and education centers throughout the country, and to provide career awards in drug abuse research and education.

After reviewing it carefully, I am very im-

pressed with its long-range approach to the drug problem of this country and support it wholeheartedly.

Sincerely,

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.

There is one aspect of the legislation, however, that needs further emphasis and development. Any resources and new knowledge developed in the field of the management of drug abuse will necessarily be limited unless they can be carried to the places where they would be applied and actually put into practice to help both the unfortunate sufferers who are mired in the miasma of illicit drugs, and the communities and the peoples that they directly affect. I would strongly favor further legislative measures that would facilitate putting into actual applied service the new concepts and new tools that are developed through the regional centers of excellence in Drug Abuse and Education.

Respectfully,

GLENN D. GARBUTT, M.D.,
Assistant Chief of Medicine, Director Methadone Clinic.

UNIVERSITY OF CALIFORNIA,
Los Angeles, Calif., November 30, 1971.

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 which contains your remarks about regional centers for drug abuse research and education, and the text of S. 2809. I have also solicited 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. The need for ongoing support is equally valid with respect to service-providing programs in the drug abuse field.

The only question we had about the bill as outlined 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 A. SCHWARTZ, M.D.,
Chief, Division of Adult Psychiatry.

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 November 18, regarding the submission of S. 2809 as an amendment to S. 2097, 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 raise a few questions of concern. 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 premature funding of well-intended programs without the prior development of sophisticated workers have served to impair their potential. Certainly the problems of drug abuse are so serious for a significant part of our population that they must be taken out of the area of politics and viewed as a significant national challenge for many years in the future. As I read your bill it appears to recognize the need for flexibility and program stability over time, which I support.

I appreciate the opportunity to review this bill and to present my views at this time.

Sincerely yours,

WILLIAM HAUSMAN, M.D.,
Professor and Head.

MOUNT ZION HOSPITAL AND MEDICAL CENTER,
San Francisco, Calif., November 26, 1971.

Senator JOHN V. TUNNEY,
Washington, D.C.

DEAR SENATOR TUNNEY: I am happy to support your proposal (S. 2809) for the creation of regional drug abuse research and education centers and for ongoing support to qualified scientists working in the field of drug abuse. I am particularly pleased with the multi-disciplinary 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 our 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 benefit of an 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 that you have requested my support for this proposal and will be glad to provide you with any further comments or assistance you might desire. The resources of our NIMH supported Haight-Ashbury Research Project, which has been involved in basic research and its community application, are also at your disposal.

Sincerely yours,

ROBERT S. WALLERSTEIN, M.D.,
Chief, Department of Psychiatry.

THE UNIVERSITY OF TEXAS
MEDICAL BRANCH,
November 29, 1971.

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 Division of 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 preventative 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 cannot be adequately carried out within a year or on a year-to-year basis. Furthermore, such large scale research would be a big step in providing the necessary information for developing sound mental health prevention programs. Presently, most of the work in alcoholism and drug abuse represent local "fire-fighting" programs which are unable to adequately explore underlying psychosocial factors.

Thus far, our own efforts in alcoholism and drug abuse have been directed toward treatment and community education. From a practical point of view, our need for updated research results and additional education would be satisfied best by regional workshops and the regional development of manpower tools of experts in drug abuse. However, it would make little sense for the programs to function independently of the National Institute 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,

DAVID A. LACERDA, Ph. D.,
Assistant Professor, Division of Community and Social Psychiatry.

HILLSIDE HOSPITAL,
Glen Oaks, N.Y., November 23, 1971.

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 I see it, the simple fact is that there are not enough well qualified teachers or researchers in the area of drug abuse. Therefore, we will have to grow our own and only such a career development program gives promise of accomplishing this.

Actually, I see the Career Development part of your bill as being almost primary to the regional center program.

Sincerely yours,

DONALD F. KLEIN. M.D.,
Medical Director.

COUNTY OF LOS ANGELES,
HEALTH DEPARTMENT,
Los Angeles, Calif., November 23, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: We have reviewed your proposed legislation, S. 2809, and feel that its intent is excellent and its scope quite adequate.

Sound research and training are sorely needed in the field of drug abuse by all persons working in the area. Local resources are overwhelmed by the need to provide direct and crisis-oriented services to thousands of drug dependent people.

Our program was the first systematic medical attempt to deal with drug abuse in this county on a large scale. After one year's experience we still have many more questions than answers with scant time to research or improve our methods. Furthermore, the approaches to the problem in this county, as elsewhere, are fragmented and the subject of much heated debate over the "best" treatment methods with very little opportunity to conduct the necessary and sophisticated research vitally needed to answer our questions.

Efforts such as your legislation proposes are badly needed for the benefit of all concerned.

Very truly yours,
G. A. HEIDBREDER, M.D., M.P.H.,
Health Officer.

HERRICK-BERKELEY COMMUNITY
MENTAL HEALTH CENTER,
Berkeley, Calif., November 23, 1971.

Senators TUNNEY, HUGHES and JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATORS TUNNEY, HUGHES AND JAVITS: We wish to express our support of Senate bill S. 2809 providing for the creation of regional centers of excellence in drug abuse, research and education. This is a very thoughtfully and intelligently conceptualized proposal. Such centers would serve as a crucial backup to the urgently needed treatment resources throughout the country.

GERALDINE FINK, M.D.,
Associate Director.
JUSTIN SIMON, M.D.,
Director.

UNIVERSITY OF COLORADO
MEDICAL CENTER,
Denver, Colo., November 24, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter with regard to S. 2809, the amendment to S. 2097, the Administration's comprehensive drug bill.

I support your amendment wholeheartedly and would urge its passage. As you seem to be unusually well aware, a crash program for the problems involved in drug abuse seems to me to be short-sighted and doomed to partial success, at best. The understanding and treatment of drug problems is enormously complex and involves many areas of medical knowledge, very few which are today at the point where one can offer definitive treatment for drug problems. Any legislation which promises definitive action at this point is limited badly by our current relative ignorance and by treatment methods which promise more than I think they can deliver. For this reason I would strongly urge the passage of your amendment which provides for study of the problems while atempting to deal with them at the same time.

I must add that I was particularly impressed by the long-range planning included in your amendment. You are very much to be congratulated and supported for building this in. I would hope that the amendment is included in the bill.

Sincerely yours,
JANICE NORTON, M.D.,
Associate Professor,
Department of Psychiatry.

ROCKLAND STATE HOSPITAL,
Orangeburg, N.Y., November 26, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senator of California,
Washington, D.C.

DEAR MR. TUNNEY: I greatly appreciate the fact that you have sent me a copy of S. 2809 since a dialogue between researchers, clinicians and legislators is bound to result on one hand in better understanding on our part and better legislation on yours.

My initial reaction to the bill is favorable but I would like to give it the benefit of more intense study and discussion with some of my colleagues. This is particularly true since I not infrequently am called upon as an expert by Congressional Committees. I would like to give it the same consideration I would of a bill about which I was to testify.

Very sincerely,
NATHAN S. KLINE, M.D.,
Director, Research Center.

MCLEAN HOSPITAL,
Belmont, Mass., November 29, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18, 1971, enclosing a reprint from the Congressional Record, containing your remarks and amendments to the Drug Abuse Research and Education Act of 1971. There is no doubt that much more needs to be done concerning drug abuse, and I believe that your suggestions would be an important step in improving our knowledge about the drug problem and its possible solutions.

The multidisciplinary approach is particularly relevant in a field in which biological, medical, psychological, social and legal factors all play a part.

You also put your finger on a very important issue when you recommend that the financing of such centers be done on a guaranteed basis for the next five years.

If these centers were established, I would hope that they would be established as a part of or in affiliation with existing institutions, rather than building completely independent centers. I favor this because during the 19th century the need for large state mental hospitals was perceived and they were built. Now people don't quite know what to do with them, as our concepts of psychiatric care have changed and the states are saddled with large pieces of real estate which limit the flexibility with which they can approach the treatment of individuals in the community.

It is quite possible that as a result of new discoveries and methods of treatment, as well as some of the social changes which we may hope for over the next decade, the importance of the drug problem will recede, and it is therefore very important to make sure that the new drug centers will not become white elephants. In other words, while establishing them as part of or in affiliation with existing institutions, one can insure that if the need for such centers changes, they can be put to use for some new needs which existing institutions may be faced with.

I am also writing to Senator Hughes and to Senator Javits, strongly endorsing your proposal. Many thanks for letting me know. If I can be of any further help, please let me know.

Yours sincerely,
FRANCIS DE MARNEFFE, M.D.

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 (S. 2809) to the Comprehensive Drug Bill (S. 2097). I have read it quite carefully and I support it most enthusiastically. Because it makes provision for the support of scientists of high caliber to work on the problem of drug abuse I feel that in the long run it may be more important than 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 people 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 factual and scientific requirements of these organizations to our municipal, state, and legislative bodies may become so overwhelming that a rational basis for drug 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 drugs can do to the body (or to society). It would also be important to determine what virtues these drugs might have in relieving pain, anxiety, depression and aggression. I think that the functions listed under Sec. 203 address themselves to these questions.

Aldous Huxley in his "Brave New World" fantasied that the fictional drug Soma could be used to produce pleasure at times when it might be badly needed. Man has always sought and always will seek a chemical release from sorrow and pain. Though society may eliminate poverty as a source of pain, science has 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 there 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. JARVIK, M.D.,
Professor of Psychiatry and Pharmacology.

MASSACHUSETTS GENERAL HOSPITAL,
Boston, Mass., November 23, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your interesting letter concerning S–2809 to be offered soon as an amendment to S–2097. I am very enthusiastic about the idea of offering career research stipends to worthy workers in the field of drug abuse research. Since I am currently supported by a similar NIMH Career Development Award, I could hardly think otherwise. The idea of using existing NIMH 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 proposal appears to be designed in a way to avoid many problems due to the waxing and waning of popular and political support for action against drug abuse, the current near-hysterical reaction to the long-time problem of drug abuse is bound to fade in the future. Would it not be simpler to use a comparable amount of federal money to support and en-

courage similar activity in existing departments of pharmacology, psychiatry and medicine in existing medical centers? Another existing set of structures presently dealing with some aspects of 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 best existing research and treatment resources rather than to create new administrative entities and new buildings. Admittedly, the present medical research and care system is falling far 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 sincerely yours,

ROSS J. BALDESSARINI, M.D.,
Assistant Professor of Psychiatry,
Chief, Neuropsychopharmacology Labs.

NEW YORK UNIVERSITY MEDICAL CENTER,
New York, N.Y., November 24, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18 and the copy of your amendment S. 2809. 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 disproportion 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 disproportion is most obvious in the area of training. Those of us who have come up through the Federal Career Scientist Program appreciate the impetus that this kind of training program can give to the development of an area. A great part of the development of scientific research in Psychiatry can be traced to the Career Development and Award 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 an addictive drug, 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 programs in the region and perhaps serve to raise the standards of practice in the various drug treatment programs.

Some extremely interesting findings into the possible mechanisms of craving, tolerance, and withdrawal have been made recently. There is little question but that your proposal would expedite the more rapid development of these promising leads.

I am pleased to support your proposal in any way that I can. I have written to Senators Javits and Hughes expressing my support and 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, forwarding to me a statement from the November 3, 1971 Congressional Record containing a copy of, and discussing S. 2809, "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,
Senator from California, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: This is in reply to comments on, and seeking support of, S. 2809, the "Drug Abuse Research and Education Act of 1971," which you recently introduced. Your letter was addressed to Dr. James Bain; but since he is no longer president of 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. 2097, to which S. 2809 is offered as an amendment. In view of this, I am sending your letter and the exerpt from the Congressional Record containing your bill, to Harry L. Williams, M.D., Chairman of our Society's Committee on the Non-medical Use of Drugs. I am asking Dr. Williams, who is Professor of Pharmacology at Emory University Medical School, Atlanta, to send you comments on S. 2809 in behalf of his commitee.

I can state on behalf of my Society that we strongly feel that the Federal government should encourage and support an expansion of 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. 2809, I certainly agree with its major objectives. I would also agree with you that for a program of the type proposed, the National Institute of Mental Health would be the appropriate administering agency.

Sincerely,

ROBERT F. FURCHGOTT, Ph. D
President.

DEPARTMENT OF MENTAL HEALTH,
Boston, Mass., November 23, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SIR: Thank you very much for sending me the information concerning your bill S. 2809. 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 ideas 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,
Baltimore, Md., November 26, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I have read your proposed bill with considerable interest. I certainly feel that a concerted research effort is needed in both the areas of drug abuse and alcoholism. I favor the terms of the drafting which leaves the question open as to whether "pure" or "applied" research be done: it is most expedient to allow knowledgeable scientists to decide how effort should be expended. Although the public wants results, it is too often the case that we cannot achieve them with the knowledge and techniques at hand, and investigators should be permitted to utilize their efforts in the way they feel will be most practical in the long run. There is little risk, I feel, of basic research being favored to the exclusion of applied research. When fundamental investigations produce practical implications for clinical treatment, there is generally no dearth of practical applicators (The greater risk, I feel, is in instituting treatment programs without a firm theoretical foundation). The sum set aside for evaluation research is particularly wise, since therapeutic enthusiasm frequently obscures limited efficacy.

I have two suggestions. I am uncertain as to whether the funds would be applied to research into alcoholism as well as "drug abuse." Certainly alcoholism constitutes a social problem of tremendous magnitude (and one of which we are unaware only through long exposure and consequent indifference). It should be included, I feel not only because of its social consequences, but also because there are scientific suggestions that similar mechanisms may perhaps be involved in abuse of alcohol and other "drugs." My second comment regards the establishment of career awards programs. I would see this as a useful technique for enlisting competent research scientists. In order to insure their participation, it would be useful to free-up some funds for research projects as well as salaries. In these days of diminishing funds for medical research, many scientists must devote a considerable amount of effort in writing grants to obtain such funds to insure that their work will not be conducted on a start and stop basis. The anxieties—as well as the efforts—seriously detract from their ability to perform their research effectively.

If you have not contacted Dr. Seymour S. Kety (Professor of Psychiatry, Harvard Medical School, Massachusetts General Hospital, Boston, Massachusetts), I would suggest you do so. He is an eminent research psychiatrist who has considerable interest in the problem of stimulating biomedical research without constraining it.

Thank you. I appreciate your solicitation of my comments.

Sincerely,

PAUL H. WENDER, M.D.,
Assistant Professor of
Psychiatry and Pediatrics.

YALE UNIVERSITY,
New Haven, Conn., November 23, 1971.
Senator JOHN V. TUNNEY,
U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for sending me a copy of your proposed bill S. 2809 to establish regional drug abuse research and education centers.

I believe the general principles behind your proposal to be sound and worthy of support. My concern would be in the detailed execution of such a plan. For example, research into basic mechanisms of drug action would be better handled by individual grants (I like the idea of the 5 year commitment) to appropriate individuals in already established laboratories, since the financing of such laboratories would greatly expand the costs of such a program as you envisage. There is no reason why these individuals cannot be affiliated with the main regional centers which will carry out the rest of the more applied parts of the program. It would depend greatly on the amount of money which could be appropriated.

Secondly, I would be very concerned that the regional centers be geographically located in areas of maximum need and that consideration be given to small satellite field stations situated in communities. This is where the problem is, and even regional centers at major universities may not reach into the problem sufficiently.

Thirdly, I believe the emphasis should be on studying the individual social factors, particularly to study of social alternatives to drug abuse and social blocking factors. The experiences with methadone are showing that even good drug substitutes do not substitute for poor social values and inadequate life opportunities.

Sincerely yours,
MICHAEL H. SHEARD, M.D.,
Associate Professor of Psychiatry,
Yale University School of Medicine.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., November 24, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I thank you for your letter of November 18 and the copy of "The Drug Abuse and Education Act of 1971". Here are some comments.

The main features of the act are all strong ones. I see no better way to make a start toward meeting our urgent national needs. The regional centers concept is excellent, and at this time our main attention should indeed be directed toward basic research, education and experimental therapeutics.

I also strongly endorse Title III. Skilled personnel in the drug abuse area are far too rare to meet national needs. Career awards are a logical and necessary provision.

I thank you for the opportunity to comment on S. 2809.

Yours sincerely,
LEONARD L. HESTON, M.D.,
Associate Professor.

STANFORD UNIVERSITY MEDICAL CENTER,
Stanford, Calif., November 30, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator,
U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for bringing Bill S. 2809, concerning an approach to the problems of drug abuse, to my attention.

Much work in both basic research and clinical issues needs to be accomplished in this area. This bill, in my opinion, offers a much needed approach. I wholeheartedly support it.

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.

HARVARD MEDICAL SCHOOL,
Boston, Mass., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator,
U.S. Senate.
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. 2809, 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 impressed by the scope and quality of the act itself. In my opinion, you have demonstrated an astute and sophisticated awareness of the needs for drug abuse education and research which currently exist in our nation.

The enactment of S. 2809 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 effacacious 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 personel with the expertise to initiate six centers 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 six 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, emasculate 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 with the contingency that funds for construction would be available. If construction funds were withheld at the pleasure of the administration, for example, by a directive from the OMB; the center, in effect would not be established.

I hope you and your colleagues in the senate will consider 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. If I and 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.

HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA,
Philadelphia, Pa., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of November 18 and the copy of bill S. 2809 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. 2097, 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.

UNIVERSITY OF TEXAS,
Dallas, Tex., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I was very interested in your recent letter and reading the text of your bill S. 2809. 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 was especially pleased and 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, the rather subtle but very real problems in stable funding of research programs, and the desirability of placing such a program within 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,
PARKHURST A. SHORE, Ph. D.,
Professor of Pharmacology.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 6, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I appreciate receiving your request for my comments on S. 2809 and I was very pleased to have an opportunity 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. 2097 to incorporate these provisions.

Sincerely yours,
PHILIP R. LEE, M.D.,
Chancellor.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, Calif., November 26, 1971.
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. 2809, and urging certain legislators and committee members to do like-

wise. A copy of our communication to them is attached for your information.

Very truly yours,

RICHARD A. SCHOENI,
Assistant Executive Officer.

MINUTES OF THE BOARD OF SUPERVISORS COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

On motion of Supervisor Hahn, unanimously carried, the following resolution was adopted:

Whereas, the elimination of drug abuse is a major national goal and the many efforts being made to accomplish it still fall far short due to the lack of specific knowledge and understanding about how to deal with the drug user; and

Whereas, a bill providing for the establishment of six regional Centers in drug abuse research and education has been introduced into the U.S. Senate by Senator John V. Tunney and which, if adopted, would provide a nationwide program in research, education, model treatment projects, experimental treatment and continuing education for professionals in drug abuse treatment; and

Whereas, these Centers would provide a new national resource for the treatment of users of narcotics and dangerous drugs, particularly for the youth, and every effort should be made to marshal the capabilities of our country in eliminating drug abuse.

Now, therefore, be it resolved that the Board of Supervisors of the County of Los Angeles, support Senate Bill 2809 as proposed by Senator Tunney and that the Executive Officer of the Board be directed to send copies of this resolution to the Los Angeles County Narcotics and Dangerous Drugs Commission, to Senator Tunney and Senator Alan Cranston and to the Chairman and committee members of the U.S. Senate Committee on Labor and Public Welfare.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
November 26, 1971.

Hon. HARRISON A. WILLIAMS, JR.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Because of the constantly spreading use of dangerous drugs and narcotics, and the desperate need for Federal legislation to fight this problem on a nation-wide basis, on Tuesday, November 23, 1971, the Board adopted the attached resolution by Senator John V. Tunney's drug treatment and education legislation, S.B. 2809.

In requesting that this resolution be sent to you, the Board respectfully urges your support in obtaining swift passage of Senator Tunney's bill.

Very truly yours,

RICHARD A. SCHOENI,
Assistant Executive Officer.

THE PRESIDENT'S ECONOMIC PROGRAM

Mr. TUNNEY. Mr. President, the Cost of Living Council recently made available to me and to other Senators a package of information intended to help in answering the many questions which our constituents are raising with respect to the President's economic program.

Whatever our views on this program, it seems to me essential that all possible information be available to clarify the confusion which has surrounded some parts of this new policy. For this reason, and because this package of information is in the nature of an official statement by the Council, I believe it would be useful to make generally available the policy information in this package.

I ask unanimous consent that the text of this package of information be printed in the RECORD.

There being no objection, the information was ordered 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 about the Economic Stabilization Program, particularly as it relates to the post-freeze phase. General policy for Phase II and the ways in which these policies will be implemented to come within the purview of the Cost of Living Council, the Pay Board and the Price Commsision. The primary agency for explaining end 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 organizations, and key telephone numbers for Members of Congress and their staffs to contact as needed for additional information:

INTERNAL REVENUE SERVICE

In addition to continuing the functions which it 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 establish a national mechanism to support the post-freeze program.

Local and regional IRS centers will provide information for the public; investigate 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. The IRS will also establish an administrative appeals procedure and will assist the Justice Department in enforcement proceedings.

A great many citizen inquiries can and should be directed to local IRS offices for appropriate handling. In addition, some 2,800 Agricultural Stabilization and Conservation Service offices will be equipped to handle citizen inquiries and to provide information.

Further information about the IRS role in Phase II will be found in Tab VII of this 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 Public Affairs is: 964–4021.

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, advice 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 help inform the public.

Although the Council will review the standards promulgated by the Pay Board and Price Commission, it will not hear appeals on specific cases.

The Council will continue to have a small professional staff, headed by Director Donald Rumsfeld.

Address of the Council is: 17th and Pennsylvania N.W. (New Federal Office Building), Washington, D.C. 20507.

Key telephone numbers for Congressional Relations are: 254–3203, 3205.

PAY BOARD

The Pay Board will deal 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 within the Pay Board to deal with the matter of executive compensation in a manner consistent with the treatment of other employee compensation and with the goals of the post-freeze program. The Construction Industry Stabilization Committee, established previously, will continue to operate within the standards issued by the Pay Board. The Pay Board will have a staff to analyze information relative to decision-making and in considering requests for exemptions from the general wage guidelines.

Address of the Pay Board is: 2000 M Street, N.W., Washington, D.C. 20508.

Key telephone number for Congressional Relations is: 254–8500.

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 stabilization program results in such windfall profits. A Rent Board—within the Price Commission—representing landlords, tenants and other interested parties will provide advice on standards and procedures for rents and will assist in mobilizing voluntary compliance with the standards.

Address of the Price Commission is: 2000 M Street, N.W., Washington, D.C. 20508.

Key telephone number for Congressional Relations: 254–8540.

THE WAGE-PRICE FREEZE—90 DAYS LATER

The new economic policy that this nation embarked upon three months ago was called for by three key developments. The serious inflation that characterized the American economy for the past half-dozen years was subsiding, but not fast enough. The unemployment rate was declining, but again much too slowly. And in its international economic dealings, as the foreign trade and balance of payments statistics clearly showed, the United States was spending much more abroad than it was earning.

The economic program that was adopted on August 15 was a combination of policies—each one reinforcing the other—to meet these three problems. On the international side, the primary actions were the suspension of gold convertibility and the 10 percent surcharge on imports. To improve the employment picture, the key proposals were the reduction in personal income taxes and the job development tax credit. On 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 1972.

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 putting a lid on wages and prices for 90 days. Second, the freeze was intended to change the expectations of the American people about inflation—to alter the thinking of both labor and business that rapid increases in prices and costs would be a permanent characteristic of the American economy. And third, the freeze was designed to provide the necessary time to develop a plan—what now has come to be called Phase II—for a stabilization program that will permit necessary price and cost adjustments while preventing a reoccurrence of serious inflation.

The permanent goal is a durable prosperity without war and without inflation. In the long run, nothing would be more 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 Cost of Living Council, under the Chairmanship of the Secretary of 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, the Special Assistant to the President for Consumer Affairs, and the Director of the Office of Emergency Preparedness. This group has met almost daily since the beginning of the freeze to develop the policies and regulations of the freeze and to provide for its general administration.

The Associate Director of the Office of Management and Budget Arnold R. Weber was named Executive Director of the Council and he assembled a staff of some 50 persons drawn from many different agencies of the Government. This staff had the responsibility for researching the policy issues of the freeze, for providing the necessary information to the public on a timely basis, and for coordinating the compliance and enforcement procedures. In addition, a special task force, under the leadership of Herb Stein of the Council of Economic Advisers, was set up to work with the Cost of Living Council staff in developing the plans for Phase II.

Primary operational responsibilities for the wage-price freeze were assigned to the Office of Emergency Preparedness. To carry out these responsibilities, General George A. Lincoln, 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 borrowed 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 sixfold in size within three days—and by the Internal Revenue Service, with its 360 regional and district offices throughout the country. In addition, the 2,800 offices of the Agricultural Stabilization and Conservation Service of the Department of Agriculture were utilized as information centers to provide complete coverage of rural America.

SUPPORT FOR THE PROGRAM

From the beginning, the American people gave their overwhelming endorsement to the President's new economic program. The program was bold, simple and effective, and the public opinion polls clearly showed wholehearted backing for it. This support moreover, continued at a very high level throughout the freeze.

Business and financial leaders also gave their full cooperation to the program. Although dividends and interest rates were not 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 with a pledge 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 that take place in the United States every day, the administration of the freeze produced some impressive statistics. Since August 15, 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 split fairly evenly among prices, wages and rents. 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 that involved employees whose insurance coverage would have lapsed had their new benefits not been able to go into effect, and two where an increase in the price for community water service was needed to provide for the building of a new water system. In addition, a significant number of exemption requests involved situations that could be 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 is the decline in interest rates, 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 and on the results of the routine monitoring of the freeze that was carried out by the Internal Revenue Service on a continuing basis. More than 45,000 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 already been resolved, with the great 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 of liquid propane gas, which 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 have been made since this monitoring program got underway in September. Apparent violations were found in about 6 percent of these cases, but most of those 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 to be found in the broad measures of prices and wages that are collected as a part of the regular economic reporting system of the Federal Government. These statistics 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 half the rate of increase that has been taking place in recent months—and most of this rise is traceable to price changes that were in fact made in earlier months, 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 conclusion is supported most dramatically by the special tabulation of nearly 4,000 individual prices for non-food commodities that showed 93 percent either unchanged or down from August to September. Furthermore, a second special analysis showed that only 1 percent of some 5,000 rental housing units had increases in rent after the announcement of the freeze.

The most meaningful—and most reassuring—reports on inflation come from the September and October figures on wholesale prices. Over the first 8 months of 1971, wholesale prices increased by an average of four-tenths of a percent per month. In September and October, however, wholesale prices *declined* by an average of two-tenths of a percent per month. 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 wholeasale 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 wage-price freeze—provides persuasive evidence of broad compliance with the freeze. It is reasonable to conclude that over the past three months, all but a very small percentage of the economic transactions in this country were carried out within the guidelines. While there is still a long road to travel in putting an end to inflation the President's stabilization program has provided a very promising beginning.

SUMMARY

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 every single wage and price remains frozen forever where 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 for a long time would not only be unfair, but would also do serious damage to the American standard of living.

The freeze was intended to do three things, and it has done them. It has shown the determination of the Federal Government to attack the inflation problem effectively. It has awakened the American people to 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 SEGMENTS OF THE ECONOMY FROM THE CONTROLS OF THE POST-FREEZE PROGRAM

The Cost of Living Council has determined that certain economic sectors shall be exempt from control during Phase II of the economic stabilization program, effective November 14. The immediate exemption of these sectors is consistent with the President's objective of removing price and wage controls as quickly as conditions warrant. The principal reasons for these decisions are as follows:

1. Certain economic sectors are characterized by a large number of sellers and frequent price fluctuations with a minimum of inflationary pressure.

Example: raw agricultural products

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: handicraft 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. Certain prices are self-assessed or characterized by a strong element of mutuality.

Examples: dues of non-profit organizations

In addition, it should be noted that certain economic transactions cannot be characterized as wages, salaries, prices or rents and are therefore not included in the program. Examples are: taxes, workmen'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 shelling, shucking, skinning, scaling, eviscerating, removing heads and icing).

3. Financial securities.

4. Exports and first import transaction.

The following were not 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, or agents of the U.S. Government, or by any other person engaged in reconditioning and selling damaged commodities received in direct connection with the adjustment of losses from insurance companies, transportation companies, or agents of the U.S. Government.

3. Custom services and products made to individual order as follows:

a. Leather goods.

b. Wigs and toupees.

c. Clothing.

d. Fur apparel.

e. Dressmaking service on material owned by individual customers.

f. Taxidermy services.

g. Framing pictures and mirrors.

h. Jewelry.

4. Miscellaneous, as follows:

a. Antiques.

b. Art objects: paintings, etchings, and sculpture.

c. Collectors coins and stamps.

d. Precious stones and mountings into which precious stones are set.

e. Rock and stone specimens.

f. Handicraft objects.

5. Royalties and copyrights for materials furnished for publication.

6. International shipping rates.

7. Dues to non-profit organizations.

8. Real estate as follows:

a. Unimproved real estate and improved real estate with improvements that are not newly constructed.

b. Real estate with newly constructed improvements in those cases (i) in which the sales price is determined after completion of the construction, or (ii) in which wage rate costs are known and pertinent wage rates are not subsequently altered by actions of the Pay Board after the sales price is set.

9. Rents, as follows:

a. Commercial, industrial, and farm property.

b. Newly constructed or substantially rehabilitated dwellings offered for rent for the first time after August 15, 1971. "Substantially rehabilitated" means a rehabilitation cost of at least one-third or more of the total value (including costs of rehabilitation) of the rehabilitated property.

10. Raw sugar.

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 restrain price and wage increases during the post-freeze stabilizaton period.

PRICE CLASSIFICATION

The general criteria for identifying economic units subject to monitoring 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 by 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 will be subject to 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 subject to prenotification to and approval by the Pay Board before they become effective.

Category 2

Pay adjustments affecting between 1,000 and 5,000 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 3

In general, pay adjustments affecting fewer than 1,000 employees will be subject to monitoring and spot checks, but prenotification and reporting at regular intervals will not be required.

A pay adjustment is a decision involving a general increase in salaries, wages, and fringe benefits either through a collective bargaining process or through actions by an employer or group of employers.

RELATION BETWEEN PROCEDURES FOR PAY AND PRICES

To ensure balanced treatment of pay and prices, consideration will be given to consistency between procedures as they apply to *pay adjustments* and to the pricing policies of the firms in which affected workers are employed. To avoid instances 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 Cost of Living Council has the authority to require a similar procedure for price adjustments for those firms covered by such pay determinations, whether or not those firms would otherwise be subject to those procedures. This authority may only apply to the segment or 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 with respect to *price 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 recommendations of the Pay Board. This authority will permit prompt response on behalf of the Cost of Living Council to recommendations of the Pay Board to consider pay adjustments of a size smaller than those specified in the general criteria. The Pay Board might wish to subject certain pay adjustments to prenotification or reporting that would not otherwise be required if the adjustment was regarded 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 THE PAY BOARD, NOVEMBER 8, 1971

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 at as early a date as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and guidance to the millions whose pay relations are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed measures, to meet the objectives which led to the establishment of this Board.

3. The general pay standard should be applicable to:

(1) changes that need approval before becoming effective;

(2) changes that must be reported when they become effective, and

(3) all other changes requiring compliance but not 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 productivity imrovement and cost of living trends. Initially, the general pay standard is established as 5.5%. The appropriateness of this figure will be reviewed periodically by the Board, taking into account such factors as the long-term productivity trend of 3%, cost of living trends, and the objective of reducing inflation.

In reviewing new contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and 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 this Board.

In reviewing existing contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(c) Scheduled increases in payment for services rendered during the "freeze" of August 16 through November 13, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments in cases which are shown to meet any of the following criteria:

(i) Prices were raised in anticipation of wage increases scheduled to occur during the "freeze."

(ii) A wage agreement made after August 15, 1971 succeeded an agreement that had expired prior to August 16, 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.

5. Following 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 to the general pay standard and for a hearing on such matters as inequities and substandard conditions.

6. No retroactive 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 salaries, in-grade and 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 post-freeze period of the Economic Stabilization Program.

It is fair to state that each and every member of the Board has worked on our problems with great dedication and diligence. For the past two weeks we have been working many hours every day to achieve a result as fair to all Americans, whatever their economic situation, as the complexities of the problems involved will permit. Issues are involved which allow for wide ranges of judgment and opinion, and some of them arouse 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 done his utmost to reach satisfactory solutions 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 5½% increase per year. This standard will be subject to periodic review.

2. Pay increases scheduled for some future date, under a contract already in effect, will be permitted, excepting those which are found to be unreasonably inconsistent with the Board's criteria.

3. Retroactive increases for pay raises denied during the freeze will only be approved in a limited number of carefully defined circumstances.

This is a brief summary of our policy decisions adopted today.

I believe these first policy decisions can and will provide a starting point for a program which will achieve the ultimate goal of ending inflation.

With the understanding, cooperation and support of the vast majority of Americans, the program will succeed. On behalf of my colleagues and myself, we ask the American people to give us that cooperation.

We will now pass out a copy of the actual plan as adopted by the Board as well as a copy of these remarks.

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 herein are designed to achieve a goal of holding average price increases across the economy to a rate of no more than 2½% per year. This is in line with the President's goal to stabilize the economy, reduce inflation and minimize unemployment, and with the Cost of Living Council's objective of reducing the rate of inflation to not more than 2 to 3% by the end of 1972.

These policies rely heavily on voluntary compliance, but they impose close supervision on those segments of the economy which substantially affect price levels. Specific regulations implementing these policies will be issued in the next few days.

Prices may not exceed their freeze period levels except as changed by published regulations or on orders of the Commission.

The basic policy is that price increases will not be allowed except those that are justified on the basis of cost increases in effect on or after November 14, 1971, taking into account productivity gains. While price increases, in the aggregate, must not exceed 2½% per year, many adjustments will be below 2½%, and some will be above 2½% as 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–November 13, 1971, freeze.

Reporting procedures for price increases vary depending on the amount of annual sales or revenues reported by a firm in its most recent fiscal year.

(a) Firms with sales of $100 million or more must prenotify the Price Commission on proposed price increases. Unless the Commission advises otherwise within 30 days after the notification is received, the notified price changes may take effect.

(b) Those firms with sales of between $50 million and $100 million must make quarterly reports to the Price Commission on changes in prices, costs and profits.

(c) All other 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 are:

(a) Manufacturers;

(b) Wholesalers, retailers, and similar commercial enterprises;

(c) Service industries and the professions; and

(d) Others.

MANUFACTURERS

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, reduced to reflect productivity gains will serve as a basis for price adjustments; and

(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/WHOLESALERS

Retail and wholesale prices are to be controlled on the basis of customary initial percentage markups which are applied to the cost of the merchandise or service. These customary initial percentage markups cannot be higher than those in the base period. Moreover, a firm may not increase its prices beyond that amount which would bring its net profit rate before taxes (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 other 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 posted no later than January 1, 1972.

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 13, 1971, reduced to reflect productivity gains, and

(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 there is a multitude of different service industries, characterized by widely varying types of costs and market conditions, possibly warranting more specific forms or regulation. The Commission is considering more specific regulations.

Until the Commission publishes specific regulations for nonprofit organizations and Government 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 interim, the freeze will continue with some rule changes amending freeze-period definitions which resulted in hardships. Landlords are required to record and make available upon request both the unit-by-unit freeze period rent and the basis for any adjustments. The Rent Board will develop basic rent guidelines for consideration by the Commission.

REGULATED INDUSTRIES

For prenotifying firms the relevant regulatory agencies shall submit all existing and new requests for rate increases to the Price

Commission. These regulatory bodies will also notify the Price Commission upon approval of rate adjustments which will be reviewed by the Price Commission. For reporting firms, the regulatory bodies will report approved rate adjustments for review by the Price Commission. The Price Commission will retain the right to implement more stringent standards.

Some regulated firms proposed rate increases have been approved by regulatory authorities, but were not allowed to become effective because of the freeze. Such increases may go into effect; however, the appropriate regulatory authority shall review such increases for consistency with the goals of the Economic Stabilization Program.

CORRECTION OF INEQUITIES

Inequities arising as a result of certain definitions and rules promulgated under the freeze or for other exceptional reasons will be handled as follows:

(1) Changes will be made to amend certain definitions and to correct inequities created by the operation of rules promulgated under the freeze, but none of these changes will permit retroactive price increases. On or after November 14, freeze-period prices may be adjusted pursuant to such changes. Specific price adjustments are subject to review by the Commission. In such cases, the Commission will determine whether the increase is significantly inconsistent with the goal of reducing the rate of inflation.

(2) Prenotification firms must file with the Commission any proposed price increases based on the modification of freeze-period rules.

(3) Firms which can demonstrate a continuing gross inequity not ameliorated by the rules of the Price Commission may request an exception through local IRS Offices.

(4) Firms must retain records supporting price increases that are made pursuant to the modified rules, and reporting firms must file reports of these changes with the Commission.

WINDFALL PROFITS

Windfall profits refer to those profits which would not have existed except for unique conditions created by the operation of the Economic Stabilization Program. The Price Commission is determined to take those measures necessary to achieve the goal of reducing the rate of inflation to 2–3% by the end of 1972. Therefore, in the administration of the stabilization program the Commission will at certain times issue such regulations as necessary to cause windfall profits to be converted into price reductions.

OTHER CONSIDERATIONS

Notwithstanding the foregoing, in making 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 necessary to achieve the overall goal of holding average price increases across the economy to a rate of no more than 2½% per year.

OFFICES PROVIDING ECONOMIC STABILIZATION INFORMATION

ALABAMA

Birmingham IRS District Office, P.O. Box 2541, Birmingham, Ala. 35203, Ph: (205) 325–3461.

Suboffices within district

Dothan, 206½ S. Oates Street, Dothan, Ala. 36301, Ph: (205) 792–2129.

Florence, P.O. Box 934, Florence, Ala. 35631, Ph: (205) 764–8855.

Huntsville, P.O. Box 208, 2109 W. Clinton Avenue, Huntsville, Ala. 35804, Ph: (205) 539–0651.

Mobile, P.O. Drawer "G", Mobile, Ala. 36601, Ph: (205) 433–3581.

Montgomery, Aronov Building, 474 S. Court Street, Montgomery, Ala. 36104, Ph: (205) 263–7521.

Tuscaloosa, P.O. Drawer 2116, Tuscaloosa, Alabama 35401, Ph: (205) 752–5591.

ALASKA

Anchorage IRS District Office, P.O. Box 1500, Anchorage, Alaska 99510, Ph: (907) 272–4511 or 4512.

ARIZONA

Phoenix IRS District Office, Federal Building, U.S. Courthouse, 230 N. First Avenue, Phoenix, Arizona 85025, Ph: (602) 258–8751.

Suboffices within district

Flagstaff, 125 E. Birch St., Suite 403, Flagstaff, Arizona 86001, Ph: (602) 774–5261.

Mesa, Lines Building, 42 S. Center St., Mesa, Arizona 85202, Ph: (602) 258–8751.

Tucson, 4633 E. Broadway, Tucson, Arizona 85711, Ph: (602) 792–6211.

ARKANSAS

Little Rock IRS District Office, 700 W. Capitol Avenue, Little Rock, Arkansas 72203, Ph: (800) 482–9350 or (501) 376–4401 (For calls originating in Little Rock).

CALIFORNIA

San Francisco IRS District Office, First Floor, 450 Golden Gate Avenue, San Francisco, California 94102, Ph: (415) 556–1040.

Suboffices within district

Chico, 241 West Fifth Street, Chico, California 95928, Ph: (916) 343–0288.

Eureka, 219 Fifth Street, Eureka, California 95501, Ph: (707) 443–6724.

Fresno, 1130 "O" Street, Fresno, California 93721, Ph: (209) 487–5076.

Hayward, 24150 Hesperian Boulevard, Hayward, California 94545, Ph: (415) 785–2864.

Modesto, Post Office Building, 1125 Eye Street, Modesto, California 95354, Ph: (209) 529–5460.

Oakland, 3505 Broadway, Oakland, California 96411, Ph: (415) 653–5750.

Redding, 1555 East Street, Redding, California 96001, Ph: (916) 241–7196.

Richmond, Post Office Building, 11th & Nevin Streets, Richmond, California 94812, Ph: (415) 235–0271.

Sacramento, Federal Building, 9th & I Streets, Sacramento, California 95804, Ph: (916) 447–6961.

Salinas, Federal Building, 100 West Alisal Street, Salinas, California 93901, Ph: (408) 424–2886.

San Jose, Second Floor, 123 East Gish Road, San Jose, California 95114, Ph: (415) 287–2500.

Downey, 8524 East Firestone Boulevard, Downey, California 90241, Ph: (213) 923–9251.

El Centro, 1561 W. Main Street, El Centro, California 92243, Ph: (714) 352–6411.

Glendale, 1530 West Glenoaks Blvd., Glendale, California 91201, Ph: (213) 688–4320.

Hollywood, 1625 North Hudson St., Hollywood, California 90028, Ph: (213) 688–4320.

Long Beach, 3530 Atlantic Avenue, Long Beach, California 90807, Ph: (213) 595–1872.

Montebello, 420 Washington Blvd., Montebello, California 90640, Ph: (213) 688–4320.

Orange County, City Financial Center, Two City Blvd. East, Orange, California 92668, Ph: (714) 836–2381.

Palm Desert, 74–273 Highway III, Unit No. 1, Palm Desert, California 92260, Ph: (714) 346–2689.

Pasadena, 44 South Chester Avenue, Pasadena, California 91101, Ph: (213) 688–4320.

Pomona, 461 East Holt, Pomona, California 91766, Ph: (714) 623–2645.

Riverside, 3610 Central Avenue, Riverside, California 92506, Ph: (714) 686–9440.

San Bernardino, 555 North Sierra Way, San Bernardino, California 92401, Ph: (714) 884–3191.

San Diego, 3977 Ohio Street, San Diego, California 92104, Ph: (714) 293–5151.

San Luis Obispo, 443 Marsh Street, San Luis Obispo, Calif. 93401, Ph: (805) 543–3865.

Santa Barbara, 2829 Vernon Road, Santa Barbara, California 93105, Ph: (805) 687–7753.

Santa Maria, 117 West Tunnel Street, Santa Maria, California 93454, Ph: (805) 922–3591.

Torrance, 20355 South Hawthorne Blvd., Torrance, California 90503, Ph: (213) 688–4320.

Van Nuys, 7101 Sepulveda Blvd., Van Nuys, California 91405, Ph: (213) 989–2700.

Ventura, 4262 Telegraph Road, Ventura, California 93003, Ph: (805) 642–4121.

San Mateo, 2233 Palm Avenue, San Mateo, California 94403, Ph: (415) 341–6575.

San Rafael, Federal Building, Third & D Street, San Rafael, California 94902, Ph: (415) 453–1114.

Santa Rosa, 2403 Professional Drive, Santa Rosa, California 95401, Ph: (707) 544–1330, ext. 218.

Stockton, Room 130, Federal Building, 401 N. San Joaquin Street, Stockton, California 95202, Ph: (209) 466–2671.

Visalia, 1500 S. Mooney Boulevard, Visalia, California 93277, Ph: (209) 732–2995.

Walnut Creek, 1700 N. Broadway, Walnut Creek California 94596, Ph: (415) 937–4304.

Yuba City, Post Office Building, 761 Plumas Street, Yuba City, California 95991, Ph: (916) 673–5921.

District office and suboffices within district

Los Angeles IRS District Office, 300 North Los Angeles Street, Los Angeles, California 90012, Ph: (213) 688–4320.

Bakersfield, Federal Building 800 Truxton Avenue, Bakersfield, California 93301, Ph: (805) 323–7553.

Crenshaw, 3900 West Santa Barbara Ave., Los Angeles, California 90008, Ph: (213) 688–4320.

West Covina, 421 South Glendora Ave., West Covina, California 91790, Ph: (213) 688–4320.

West Los Angeles, 11390 West Olympic Blvd., Los Angeles, California 90064, Ph: (213) 688–4320.

COLORADO

Denver IRS District Office, 1961 Stout Street, Denver, Colorado 80202, Ph: (303) 825–7041.

Suboffices within district

Colorado Springs, 728 S. Tejon Street, Colorado Springs, Colorado 80902, Ph: (303) 636–5171.

Greeley, 724 Eighth Street, Greeley, Colorado 80631, Ph: (303) 352–2197.

Pueblo, 245 W. Abriendo Street, Pueblo, Colorado 81005, Ph: (303) 544–5406.

CONNECTICUT

Hartford IRS District Office, 450 Main Street, Hartford, Connecticut 06115, Ph: (203) 244–3245.

Suboffices within district

Bridgeport, 915 Lafayette Boulevard, Bridgeport, Connecticut 06003, Ph: (203) 336–3329.

New Haven, 1227 Chapel Street, New Haven, Connecticut 06511, Ph: (203) 772–6346.

Stamford, 300 Broad Street, Stamford, Connecticut 06901, Ph: (203) 327–3243.

Water, 14 Cottage Place, Waterbury, Connecticut 06702, Ph: (203) 755–3322.

DELAWARE

Wilmington, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 652–3411.

Suboffice within district

Dover, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 674–1040.

Georgetown, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 856–6316.

FLORIDA

400 West Bay, Jacksonville, Fla. 32202, Ph: (904) 791–3181.

Suboffices within district

Daytona, 326 S. Grandview Ave., Daytona, Fla. 32018, Ph: (902) 252–4319.

Ft. Lauderdale, 2309 N. Federal Highway, Ft. Lauderdale, Fla. 33305, Ph: (305) 565–1681.

Lakeland, Room 105, 124 S. Tennessee Ave., Lakeland, Fla. 33801, Ph: (813) 682–0195.

Melbourne, 1513 Harbor City Blvd., Melbourne, Fla. 32935, Ph: (305) 254–7200.

Miami, 51 S.W. 1st Ave., Miami, Fla. 33130, Ph: (305) 350–4222.

Orlando, 2520 N. Orange Ve., Orlando, Fla. 32804, Ph: (305) 425–7594. As of 11/29, address will be: 3191 Maguire Blvd., Orlando, Fla. 32803.

Pensacola, 40 E. Chase St., Pensacola, Fla. 32502, Ph: (904) 432–8315.

St. Petersburg, Room 153, Federal Office Building, 144 1st Ave. South, St. Petersburg, Fla. 33701, Ph: (813) 893–3381.

Sarasota, Room 112, Federal Building, 111 S. Orange Ave., Sarasota, Fla. 33577, Ph: (813) 955–7101.

Tallahassee, 591 N. Dural St., Tallahassee, Fla. 32301, Ph: (904) 224–9022.

Tampa, Federal Building, 500 Zack, Tampa, Fla. 33602, Ph: (813) 228–7711.

W. Palm Beach, 421 Iris St., W. Palm Beach, Fla. 33401, Ph: (305) 833–9776.

GEORGIA

P.O. Box 1067, Atlanta, Ga. 30301, Ph: (404) 688–4050.

Suboffices within district

Albany, P.O. Box 1908, Albany, Ga. 31702, Ph: (912) 436–0173.

Athens, P.O. Box 1589, Athens, Ga. 30601, Ph: (40) 546–2223.

Augusta, Room 406, Mid-South Bldg., 360 Base Street, Augusta, Ga. 30901, Ph: (404) 722–1213.

Columbus, P.O. Box 1306, Columbus, Ga. 31902, Ph: (404) 324–3619.

Macon, P.O. Box 4601, Macon, Ga. 31208, Ph: (912) 743–0381.

Rome, P.O. Box 193, Rome, Ga. 30161, Ph: (404) 234–0519.

Savannah, P.O. Box 10026, Savannah, Ga. 31402, Ph: (912) 232–4321.

HAWAII

Honolulu IRS District Office, U.S.P.O., Courthouse & Customhouse, 335 South King Street, Honolulu, Hawaii 96813, Ph: (808) 537–5111.

Suboffice within district

Hilo Federal Building, P.O. Box 607, Hilo, Hawaii 96720, Ph: (808) 935–8210.

IDAHO

Boise IRS District Office, 550 West Fort Street, Boise, Idaho 83707, Ph: (208) 342–2344.

Suboffices within district

Coeur d'Alene, The Federal Building, 4th and Lakeside, Coeur d'Alene, Idaho 83814, Ph: (208) 664–8132.

Idaho Falls, 560 Third Street, Idaho Falls, Idaho 83401, Ph: (208) 522–6464.

Lewiston, 1618 Idaho Street, Lewiston, Idaho 83501, Ph: (208) 743–2565.

Pocatello, 850 East Lander Street, Pocatello, Idaho 83201, Ph: (208) 232–5164.

Twin Falls, 548 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, Ph: (208) 733–0118.

ILLINOIS

Chicago IRS District Office, State-Madison Bldg., 17 No. Dearborn St., Chicago, Illinois 60602, Ph: (312) 591–1229.

Suboffices within district

Aurora, 316 N. Lake Street, Aurora, Illinois 60506, Ph: (312) 591–1229.

Chicago—North Area, 3611 No. Kedzie Avenue, Chicago, Illinois 60618, Ph: (312) 591–1229.

Chicago—South Area, 724 W. 64th Street, Chicago, Illinois 60621, Ph: (312) 591–1229.

Chicago—West Area, 5817 W. Madison St., Chicago, Illinois 60644, Ph: (312) 591–1229.

Des Plaines, 770 Lee St., Des Plaines, Illinois 60016, Ph: (312) 591–1229.

Elgin, 691 Dundee Avenue, Elgin, Illinois 60120, Ph: (312) 591–1229.

Evanston, Main-Chicago Bldg., 534 Main Street, Evanston, Illinois 60202, Ph: (312) 591–1229.

Harvey, 15325 So. Page Avenue, Harvey, Illinois 60426, Ph: (312) 591–1229.

Joliet, Relyea Bldg., 20 E. Cass St., Joliet, Illinois 60431, Ph: (312) 591–1229.

Rockford, Home Savings Loan Bldg., 1111 E. State St., Rockford, Illinois 61108, Ph: (815) 968–0661.

Rock Island, Post Office & Court House, 211 19th Street, Rock Island, Illinois 61201, Ph: (309) 794–9666.

Waukegan, Rodbrow Commercial Bldg., 2720 West Grand Ave., Waukegan, Illinois 60085, Ph: (312) 591–1229.

Wheaton, Professional Bldg., 211 East Illinois St., Wheaton, Illinois 60187, Ph: (312) 591–1229.

District office and suboffices within district

Springfield IRS District Office, Land of Lincoln Bldg., 325 West Adams St., Springfield, Illinois 62704, Ph: (217) 525–4380.

Alton, Germania Savings Bldg., 543 E. Broadway, Alton, Illinois 62002, Ph: (618) 462–0031.

Carbondale, 606 East Main St., Carbondale, Illinois 62901, Ph: (618) 549–6231.

Champaign, Federal Bldg., 301 N. Randolph St., Champaign, Illinois 61820, Ph: (217) 352–5177.

Danville, 201 N. Vermillion St., Danville, Illinois 61832, Ph: (217) 442–1514.

Decatur, P.O. Bldg., 214 N. Franklin St., Decatur, Illinois 62523, Ph: (217) 429–2333.

East St. Louis, Federal Bldg., 650 E. Missouri Ave., East St. Louis, Illinois 62201, Ph: (618) 274–2200.

Mt. Vernon, 811 Casey Avenue, Mt. Vernon, Illinois 62864, Ph: (618) 242–6533.

Peoria, Savings Center Tower, 411 Hamilton Blvd., Peoria, Illinois 61602, Ph: (309) 673–9061.

Quincy, Post Office Bldg., 200 N. 8th Street, Quincy, Illinois 62301, Ph: (217) 224–0901.

INDIANA

Indianapolis IRS district office

Indianapolis P.O. & Ct. Ho., Room 434, U.S. Post Office, Court House Bldg., Meridian at Ohio Sts., Indianapolis, Indiana 46244, Ph: (317) 633–8611.

Suboffices within district

Bloomington, F.O.B., 119 W. 7th St., Bloomington, Indiana 47401, Ph: (812) 339–2292.

Elkhart, Marion Office Bldg., 513 S. Third St., Elkhart, Indiana 46514, Ph: (219) 293–0555.

Evansville, F.O.B. & Ct. Ho., 101 N.W. Seventh St., Evansville, Indiana 47708, Ph: (812) 423–6871, Ext. 244 or 245.

Fort Wayne, Post Office, 1302 S. Harrison Ave., Fort Wayne, Indiana 46802, Ph: (219) 422–6131, Ext. 217.

Gary, New Federal Bldg., 610 Connecticut St., Gary, Indiana 46402, Ph: (219) 886–2411, Ext. 225 or 246.

Hammond, F.B. & Ct. Ho., 507 State St., Hammond, Indiana 46320, Ph: (219) 932–5500, Ext. 202.

Lafayette, Mar Jean Village Shopping Center, 22 North Earl St., Lafayette, Indiana 47904, Ph: (317) 447–6855.

Muncie, 421 S. Walnut, Muncie, Indiana 47305, Ph: (317) 289–2411, Ext. 61.

New Albany, F.B., 121 W. Spring St., New Albany, Indiana 47150, Ph: (812) 283–1111.

Richmond, 117 S. Seventh St., Richmond, Indiana 47374, Ph: (317) 966–0924.

South Bend, 1317 Mishawaka Ave., South Bend, Indiana 46615, Ph: (219) 234–8111, Ext. 284.

Terre Haute, P.O. & Court House Bldg., Seventh & Cherry Sts., Terre Haute, Indiana 47807, Ph: (812) 232–5331, Ext. 385.

IOWA

Des Moines IRS District Office, Economic Stabilization Division, P.O. Box 797, Des Moines, Iowa 50303, Ph: (515) 284–4367.

Suboffices within district

Cedar Rapids, 218 Federal Bldg., 1st Avenue & 1st St. SE., Cedar Rapids, Iowa 52401, Ph: (319) 366–2483.

Council Bluffs, Federal Building, 6th and Broadway, Room 254, P.O. Box 1018, Council Bluffs, Iowa 51501, Ph: (712) 328–1543.

Davenport, 116 Federal Building, 131 East 4th Street, Davenport, Iowa 52801, Ph: (319) 324–1961.

Sioux City, 211 Post Office Building, Sixth & Douglas, P.O. Box 1648, Sioux City, Iowa 51101, Ph: (712) 252–4161.

Waterloo, Post Office Building, 3d Floor, Commercial Street and N. Park Ave., P.O. Drawer A, Waterloo, Iowa 50704, Ph: (319) 234–4483.

KANSAS

Wichita IRS District Office, 416 S. Main Street, Wichita, Kansas 67202, Ph: (316) 267–5301.

Suboffices within district

Kansas City, 812 N. Seventh Street, Kansas City, Kansas 66101, Ph: (816) 374–4361.

Topeka, 217 East Fourth Street, Topeka, Kansas 66603, Ph: (913) 234–8661 Ext. 285.

KENTUCKY

P.O. Box 1701, Louisville, Ky. 40201, Ph: (502) 582–5321.

Suboffices within district

Bowling Green, P.O. Box 508, Bowling Green, Ky. 42101, Ph: (502) 842–0359.

Covington, P.O. Box 931, Seventh & Scott, Covington, Ky. 41012, Ph: (513) 684–3423.

Lexington, 1500 Leestown Rd., Lexington, Ky. 40505, Ph: (606) 252–2312.

Owensboro, P.O. Box 530, Federica & Fifth Sts., Owensboro, Ky. 42301, Ph: (502) 684–8826.

Paducah, P.O. Box 610, Paducah, Ky. 42001, Ph: (502) 443–6211.

LOUISIANA

New Orleans IRS District Office, 600 South Street, New Orleans, Louisiana 70190, Ph: (504) 527–2881.

Suboffices within district

Alexandria, Wilshire Building, 3800 Parliament Drive, Alexandria, Louisiana 71301, Ph: (318) 445–6511.

Baton Rouge, Federal Building, Room 309, 750 Florida Street, Baton Rouge, Louisiana 70801, Ph: (504) 348–0181.

Lafayette, 219 Federal Office Building, Jefferson & E. Main Streets, Lafayette, Louisiana 70504, Ph: (318) 234–1407.

Lake Charles, 2030 Federal Building, Moss, Pujo & Kirby Streets, Lake Charles, Louisiana 70601, Ph: (318) 433–4642.

Monroe, 21 KTVE–TV Building, 206 Catalpa Street, Monroe, Louisiana 71201, Ph: (318) 325–1712.

Shreveport, 207 Petroleum Building, 619 Market Street, Shreveport, Louisiana 71101, Ph: (318) 425–1241.

MAINE

68 South Sewall Street, Augusta, Maine 04330, Ph: (207) 622–3761.

Suboffices within district

Bangor, Post Office & Federal Bldg., Harlow Street, Bangor, Maine 04401, Ph: (207) 942–8370.

Biddeford, 18 South Street, Biddeford, Maine 04005, Ph: (207) 282–1646.

Lewiston, 95 Park Street, Lewiston, Maine 04240, Ph: (207) 784–6410.

Portland, Post Office & Fed. Bldg., 125 Forest Avenue, Portland, Maine 04101, Ph: (207) 775–0501.

Presque Isle, 373 Main Street, Presque Isle, Maine 04769, Ph: (207) 764–4451.

Waterville, 28 College Avenue, Waterville, Maine 04901, Ph: (207) 872–6379.

MARYLAND (INCLUDING DISTRICT OF COLUMBIA)

Baltimore IRS District Office, 31 Hopkins Plaza, Baltimore, Maryland 21201, Ph: (301) 962–2590.

Suboffices within district

Annapolis, 253 West Street, Annapolis, Maryland 21401, Ph: (301) 263–2331.

Cumberland, 203 Post Office Building, Pershing Street, Cumberland, Maryland 21502, Ph: (301) 722–2300.

Easton, Post Office Building Annex, 116 East Dover Street, Easton, Maryland 21601, Ph: (301) 822–2404.

Frederick, 914 East Street, Monocacy Village Shopping Center, Frederick, Maryland 21701, Ph: (301) 663–9241.

Hagerstown, Professional Arts Building, 5 Public Square, Hagerstown, Maryland 21740, Ph: (301) 731–1251.

Salisbury, Federal Building, 1st Floor, 129 East Main Street, Salisbury, Maryland 21801, Ph: (301) 742–1701.

Washington, 1201 E Street, N.W., Washington, D.C. 20226, Ph: (202) 337–0450.

Wheaton Plaza South, Wheaton Plaza Shopping Center, Wheaton, Maryland 20902 Ph: (202) 337–0450.

MASSACHUSETTS

Mascachusetts IRS District Office, Boston, JFK Federal Office Buidling, Government Center, Boston, Massachusetts 02203. Ph: (617) 223–4750.

Suboffices within district

Springfield, 436 Dwight Street, Springfield, Massachusetts 01103, Ph: (413) 781–2380.

Worcester, Federal Building and Courthouse, Worcester, Massachusetts 01601, Ph: (617) 791–2314.

MICHIGAN

Detroit IRS District Office, Park Avenue Building, 2011 Park Ave., Detroit, Mich. 48226, Ph: (313) 226–7650.

Suboffices within district

Ann Arbor, Dick Building, 3430 Washtenaw, Ann Arbor, Mich. 48104, Ph: (313) 769–7100.

Battle Creek Bldg. No. 2–Fed. Center, 74 N. Washington Street, Battle Creek, Mich. 49017, Ph: (616) 962–6511.

Benton Harbor, Woolworth Bldg., 145 W. Main Street, Benton Harbor, Mich. 49022, Ph: (616) 927–3507.

Dearborn, 22720 Michigan Ave., Dearborn, Mich. 48124, Ph: (313) 226–7602.

Flint, F.O.B. Church & W. Sec. St., Flint, Michigan 48502, Ph: (313) 234–5621 Ext. 200.

Grand Rapids, Northbrook Office Bldg. #2, 2920 Fuller Ave., N.E., Grand Rapids, Mich. 49505, Ph: (616) 364–9581.

Highland Park, 16480 Woodward Ave., Highland Park, Mich. 48203, Ph: (313) 869–4510 Ext. 49 or 50.

Jackson, 524 N. Jackson St., Jackson, Mich. 49201, Ph: (517) 783–2653.

Kalamazoo, 410 W. Michigan Ave., Kalamazoo, Mich. 49006, Ph: (616) 343–2593.

Lansing, 232 Fed. Bldg., 315 W. Allegan St., Lansing, Mich. 48933, Ph: (517) 372–1910, Ext. 646.

Marquette, 328 PO, Washington & Third St., Marquette, Mich. 49855, Ph: (906) 285–1363.

Mt. Clemens, Lawyers Bldg., 23 Cass Ave., Mt. Clemens, Mich. 48043, Ph: (313) 293–3440.

Muskegon, Room 203, Post Office Bldg., First & Market Sts., Muskegon, Mich. 49440, Ph: (616) 722–6096.

Pontiac, Fed. Bldg. & Post Office, Huron & Perry Sts., Pontiac, Mich. 48058, Ph: (313) 338–7101.

Saginaw, Koski Bldg., 2137 Warwick St., Saginaw, Mich. 48602, Ph: (517) 793–2340 Ext. 277.

MINNESOTA

St. Paul IRS District Office, Federal Building & U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101, Ph: (612) 725–7351.

Suboffices within district

Duluth, Federal Building, Courthouse & Customhouse, 515 West First Street, Duluth, Minnesota 55802, Ph: (218) 727–6692.

Mankato, 250 Martin Building, Mankato, Minnesota 56001, Ph: (507) 385–9371.

Minneapolis, Federal Office Building, 210 Third Avenue South, Minneapolis, Minnesota 55401, Ph: (612) 725–7351.

Rochester, Federal Building, 301 First Street SW., Rochester, Minnesota 55901, Ph: (507) 288–3126,

St. Cloud, Federal Building, 720 Saint Germain Street, St. Cloud, Minnesota 56302, Ph: (612) 251–4404.

MISSISSIPPI

Mississippi IRS District Office, Jackson, 301 Building, 301 N. Lamar Street, Jackson, Mississippi 39202, Ph: (601) 948–7821.

Suboffices within district

Greenville, P.O. Box 937, Greenville, Mississippi 38701, Ph: (601) 335–3566.

Gulfport, Mississippi City Station, P.O. Box 7115, Gulfport, Mississippi 39501, Ph: (601) 896–6900.

Hattiesburg, P.O. Box 1669, Hattiesburg, Mississippi 39402, Ph: (601) 583–4371.

Meridian, P.O. Box 1659, Meridian, Mississippi 39301, Ph: (601) 693–1788.

Tupelo, Room 310, Federal Office Building, Tupelo, Mississippi 38802, Ph: (601) 842–1366.

MISSOURI

St. Louis IRS District Office, P.O. Drawer 1087, Central Station, St. Louis, Missouri 63188, Ph: (314) 622–4185.

Suboffices within district

Clayton, Missouri Savings Assn. Bldg., 7635 Forsyth Blvd., Clayton, Missouri 63105, Ph: (314) 725–8310.

Columbia, P.O. Box 795, Columbia, Missouri 63105, Ph: (314) 442–2271.

Joplin, Federal Bldg. 302 Joplin Street, Joplin, Missouri 64801, Ph: (417) 624–5858.

Kansas City, P.O. Box 15278, Kansas City, Missouri 64106, Ph: (816) 374–5858.

St. Joseph, P.O. Box 1029, St. Joseph, Missouri 64501, Ph: (816) 233–0211.

Springfield, P.O. Box 900, Springfield, Missouri 65802, Ph: (417) 865–8361.

MONTANA

Helena IRS District Office, Federal Office Building, West Sixth Street & Park Avenue, Helena, Montana 59601, Ph: (406) 442–9040 Ext. 3331.

NEBRASKA

Omaha IRS District Office, Federal Office Building, P.O. Box 662, Omaha, Nebraska 68101, Ph: (402) 221–3495.

Suboffices within district

Grand Island, P.O. Box 940, Grand Island, Nebraska 68801, Ph: (308) 382–8640.

Lincoln, P.O. Box 83109, Lincoln, Nebraska 68501, Ph: (402) 475–3541.

NEVADA

Reno IRS District Office, 300 Booth Street, Reno, Nevada 89502, Ph: (702) 784–5521.

Suboffice within district

Las Vegas, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101, Ph: (702) 385–6294.

NEW HAMPSHIRE

Portsmouth IRS District Office, 80 Daniel Street, Portsmouth, New Hampshire 03801, Ph: (603) 436–7011.

Suboffice within district

Manchester, 1232 Elm Street, Manchester, New Hampshire 03101, Ph: (603) 431–7861.

NEW JERSEY

Newark IRS District Office, 970 Broad Street, Newark, New Jersey 07102, Ph: (201) 645–5950.

Suboffices within district

Asbury Park, 611 Heck Street, Asbury Park, New Jersey 07712, Ph: (201) 775–1800.

Atlantic City, 2924 Atlantic Avenue, Atlantic City, New Jersey 08401, Ph: (609) 348–3184.

Camden, Reutter Building, 9th & Cooper Streets, Camden, New Jersey 08101, Ph: (609) 963–2342, 966–7333.

Hackensack, 334 Union Street, Hackensack, New Jersey 07601, Ph: (201) 487–8981.

Jersey City, 591 Summit Avenue, Jersey City, New Jersey 07306, Ph: (201) 659–9038.

Morristown, 3 Schuyler Place, Morristown, New Jersey 07960, Ph: (201) 538–3960.

New Brunswick, 167 New Street, New Brunswick, New Jersey 08901, Ph: (201) 246–1423.

Paterson, 150 Ellison Street, Paterson, New Jersey 07505, Ph: (201) 279–2626.

Perth Amboy, 313 State Street, Perth Amboy, New Jersey 08861, Ph: (201) 442–3800.

Toms River, 910 Route 166, Toms River, New Jersey 08753, Ph: (201) 244–6500.

Trenton, 428 East State Street, Trenton, New Jersey 08608, Ph: (609) 394–7113.

Vineland, 512 Landis Avenue, Vineland, New Jersey 08306, Ph: (609) 692–1200.

NEW MEXICO

Albuquerque IRS District Office, P.O. Box 1967, Albuquerque, New Mexico 87103, Ph: (505) 843–2567.

Suboffice within district

Roswell, P.O. Box 1637, Roswell, New Mexico 88201, Ph: (505) 622–1670.

NEW YORK

Albany IRS District Office, 161 Washington Avenue, Albany, New York 12201, Ph: (578) 472–6140.

Suboffice within district

Poughkeepsie, 337 Mill Street, Poughkeepsie, New York 12601, Ph: (914) 452–3400 Ext. 457, 458.

District office and suboffices within district

Brooklyn IRS District Office, 35 Tillary Street, Brooklyn, New York 11201, Ph: (212) 855–4994.

Flushing, 135–59 37th Avenue, Flushing, New York 11354, Ph: (212) 539–9010.

Jamaica, 150–14 Jamaica Avenue, Jamaica, New York 11432, Ph: (212) 291–8000.

Jackson Heights, 74–09 37th Avenue, Jackson Heights, N.Y. 11372, Ph: (212) 291–8000.

Mineola, 114 Old Country Road, Mineola, New York 11501, Ph: (516) 248–7100.

Riverhead, 240 W. Main Street, Riverhead, New York 11901, Ph: (516) 727–2436.

Smithtown, 444 Route No. 111, Smithtown, New York 11787, Ph: (516) 724–8824.

District office and suboffices within district

Buffalo IRS District Office, 111 W. Huron Street, Federal Building, Buffalo, New York 14202, Ph: (716) 842–3660, 3662.

Binghamton, U.S. Courthouse, 11 Henry Street, Binghamton, New York 13902, Ph: (607) 772–5457.

Elmira, U.S. Post Office Bldg., State & N. Church Sts., Elmira, New York 14901, Ph: (607) 734–6241.

Jamestown, New Federal Bldg., E. 3rd St. & Pendergast Ave., Jamestown, New York 14701, Ph: (716) 484–1131.

Niagara Falls, U.S. Post Office Bldg., 615 Main St., Niagara Falls, New York 14302, Ph: (716) 694–5470.

Rochester, 41 State Street, Rochester, New York 14614, Ph: (716) 546–4900.

Syracuse, Hunter Plaza, 115–123 South Salina St., Syracuse, New York 13202, Ph: (315) 473–3570.

Utica, Brock Building, 276 Genesee Street, Utica, New York 13502, Ph: (315) 797–1151.

Watertown, U.S. Post Office, Watertown, New York 13601, Ph: (315) 782–4590.

District office and suboffices within district

Manhattan IRS District Office, 120 Church Street, New York, New York 10007, Ph: (212) 466–1600.

Bronx, 2467–81 Jerome Avenue, Bronx, New York 10468, Ph: (212) 933–7800.

Mt. Vernon, 120 E. Prospect Avenue, Mt. Vernon, New York 10550, Ph: (914) 644–7550.

New Rochelle, 271 North Avenue, New Rochelle, New York 10801, Ph: (914) 632–2120.

Spring Valley, 39 South Main Street, Spring Valley, New York 10977, Ph: (914) 352–3060.

Staten Island, 45 Bay Street, Staten Island, New York 10301, Ph: (212) 447–0711.

White Plains, 95 Church Street, White Plains, New York 10601, Ph: (914) 761–4250.

Yonkers, 45 South Broadway, Yonkers, New York 10701. Ph: (914) 423–0201.

NORTH CAROLINA

Greensboro IRS District Office, 320 Federal Place, Greensboro, North Carolina 27401, Ph: (919) 275–0565.

Suboffices within district

Asheville, Plateau Building, 50 S. French Broad Avenue, Asheville, North Carolina 28802, Ph: 1919–800–822–8800.

Charlotte, 316 E. Morehead Street, Charlotte, North Carolina 28202, Ph: (704)372–0711, 1919–800–822–8800.

Durham, Federal Building 302 Morris Street Durham North Carolina 27701, Ph: 1800–822–8800.

Fayetteville, Federal Building, 301 Green Street, Fayetteville, North Carolina 28302, Ph: 1800–822–8800.

Gastonia, Post Office Building, 301 E. Main Ave., Gastonia, North Carolina 28052, Ph: 1919–800–822–8800.

Greenville, Rivers Building, 211 Evans Street, Greenville, North Carolina 27834, Ph: 121–800–822–8800.

Hickory, Main Avenue Place, S.W., Hickory, North Carolina 28601, Ph: (704) 328–5639, 1919–800–822–8800.

High Point, 1605 N. Main Street, High Point, North Carolina 27262, Ph: 1800–822–8800.

Raleigh, U.S. Post Office, Courthouse and Fed. Building, 310 New Bern Avenue, Raleigh, North Carolina 27601, Ph: 1–800–822–8800.

Sanford, Federal Building, 228 Carthage Street, Sanford, North Carolina 27330, Ph: 112–800–822–8800.

Wilmington, 16 S. 16th Street, Wilmington, North Carolina 28401, Ph: Operator ask 800–822–8800.

Winston-Salem, Main Post Office Building, 5th Trade and Liberty, Winston-Salem, North Carolina 27602, Ph: 1800–822–8800.

NORTH DAKOTA

Fargo IRS District Office, Federal Building and Post Office, 653 Second Avenue, North, Fargo, North Dakota 58102, Ph: (800) 342–4710.

OHIO

Cincinnati IRS District Office, P.O. Box 1637, Cincinnati, Ohio 45201, Ph: (513) 684–3795.

Suboffices within district

Columbus, P.O. Box 1260, Columbus, Ohio 43216, Ph: (614) 467–7422.

Dayton, Grant-Deneau Tower, 40 W. Fourth Street, Dayton, Ohio 45402, Ph: (513) 461–5528.

Cleveland IRS District Office, P.O. Box 5608, Cleveland, Ohio 44101, Ph: (216) 522–3440.

Akron, 411 Wolf Ledges Parkway, Akron, Ohio 44311, Ph: (216) 376–2177.

Canton, Federal Building, 201 Cleveland Ave., S.W., Canton, Ohio 44701, Ph: (216) 454–9477.

Cleveland—East, 121 Shaker Bldg., 12025 Shaker Blvd., Cleveland, Ohio 44120, Ph: (216) 795–4014.

Lima, 205 W. Market St., Lima, Ohio 45801, Ph: (419) 225–6015.

Lorain, 400 Reid Ave., Lorain, Ohio 44052, Ph: (216) 244–3220.

Mansfield, Columbia Gas Bldg., 115½ Park Ave., W., Mansfield, Ohio 44902, Ph: (419) 522–2402.

Steubenville, 630 Market Street, Steubenville, Ohio 43952, Ph: (614) 283–3374.

Toledo, Federal Office Building, 234 Summit Street, Toledo, Ohio 43604, Ph: (419) 259–6228.

Warren, 135 Pine St., S.E., Warren, Ohio 44481, Ph: (216) 399–3624.

Youngstown, 112 W. Commerce St., Youngstown, Ohio 44503, Ph: (216) 746–2976.

OKLAHOMA

Oklahoma City IRS District Office, P.O. Box 66, Oklahoma City, Oklahoma 73101, Ph: (405) 231–4911.

Suboffices within district

Enid, P.O. Box 1512, Enid, Oklahoma 73701, Ph: (405) 237–4325.

Lawton, P.O. 1129, Lawton, Oklahoma 73501, Ph: (405) 355–7373.

Muskogee, P.O. Box 1666, Muskogee, Oklahoma 74401, Ph: (918) 683–3111, Ext. 473.

Tulsa, Room 1000, 15 W. Sixth Street, Tulsa, Oklahoma 74119, Ph: (918) 583–5721.

OREGON

Portland IRS District Office, 319 S. W. Pine Street, Portland, Oregon 97204, Ph: (503) 226–7781.

Suboffices within district

Eugene, 1471 Pearl Street, Eugene, Oregon 97401, Ph: (503) 342–5141 Ext. 320, 327.

Medford, 333 W. 8th Street, Medford, Oregon 97501, Ph: (503) 779–2266 Ext. 266.

Salem, 674 Church St., N.E., Salem, Oregon 97308, Ph: (503) 585–1241 Ext. 241.

PENNSYLVANIA

Philadelphia IRS District Office, 401 North Broad Street, Philadelphia, Pennsylvania 19108, Ph: (215) 597–7910.

Suboffices within district

Allentown, 118 North Ninth Street, Allentown, Pennsylvania 18102, Ph: (215) 434–0181 Ext. 241, 242 or 243.

Bethlehem, 65 East Elizabeth Avenue, Bethlehem, Pennsylvania 18018, Ph: (215) 867–4146.

Chester, Fidelity Chester Bldg., 5th & Market Streets, Chester, Pennsylvania 19013, Ph: (215) 874–5381.

Harrisburg, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17101, Ph: (717) 782–4513.

Lancaster, 46 South Duke Street, Lancaster, Pennsylvania 17602, Ph: (717) 394–0516.

Norristown, 1711–A Markley Street, Norristown, Pennsylvania 19401, Ph: (215) 279–3850, 51, 52.

Pottsville, 420 North Centre Street, Pottsville, Pennsylvania 17901, Ph: (717) 622–9737, 9738.

Reading, 525 Franklin Street, Reading, Pennsylvania 19602, Ph: (215) 372–8461.

Scranton, 125 North Washington Avenue, Scranton, Pennsylvania 18503, Ph: (717) 344–7341.

Wilkes-Barre, Federal Building, Main & South Streets, Wilkes-Barre, Pennsylvania 18703, Ph: (717) 825–6307.

Williamsport, 322–24 Locust Street, Williamsport, Pennsylvania 17701, Ph: (717) 323–3343.

York, 2801 Eastern Boulevard, York, Pennsylvania 17402, Ph: (717) 757–2670.

Pittsburgh IRS District Office, P. O. Box 2689, Pittsburgh, Pennsylvania 15230, Ph: (412) 644–6740.

Altoona, Block & Yon Building, 1109 12th Street, Altoona, Pennsylvania, 16601, Ph: (814) 944–1585.

Beaver Falls, Massa Building, 1501 Eighth Avenue, Beaver Falls, Pennsylvania 15010, Ph: (412) 843–4050.

Erie, Room 320 Rothrock Building, 121 West 10th Street, Erie, Pennsylvania 16501, Ph: (814) 453–4226.

Greensburg, Eastgate Shopping Center, 1135 E. Pittsburg Street, Greensburg, Pennsylvania 15601, Ph: (412) 837–4640.

Johnstown, Room 237, Post Office Building, Locust Street Entrance, Johnstown, Pennsylvania 15901, Ph: (814) 535–2755.

McKeesport, 337 Shaw Avenue, McKeesport, Pennsylvania 15132, Ph: (412) 678–8653.

Washington, 70 East Beau Street, Washington, Pennsylvania 15301, Ph: (412) 225–0261.

RHODE ISLAND

Providence IRS District Office, 130 Broadway, Providence, Rhode Island 02903, Ph: (401) 528–5206, 5210.

SOUTH CAROLINA

Columbia IRS District Office, 901 Sumter Street, Columbia, South Carolina 29201, Ph: (803) 253–8371.

Suboffices within district

Charleston, 334 Meeting Street, Charleston, South Carolina 29403, Ph: (803) 577–4171, Ext. 216.

Florence, 183 S. Coit Street, Florence, South Carolina 29501, Ph: (803) 663–2412.

Greenville, 300 E. Washington Street, Greenville, South Carolina 29603, Ph: (803) 242–5434.

Spartanburg, 201 Magnolia Street, Spartanburg, South Carolina 29301, Ph: (803) 583–8494.

SOUTH DAKOTA

Aberdeen IRS District Office, 640 Ninth Avenue SW, Aberdeen, South Dakota 57401, Ph: (605) 225–0250.

Suboffices within district

Rapid City, Meligren Building, Room 307, 520 Kansas City Street, Rapid City, South Dakota 57701, Ph: (605) 348–1121.

Effective December 6, phone changes to (800) 592–1870.

Sioux Falls, Federal Building & Courthouse, 400 South Phillips Avenue, Sioux Falls, South Dakota 57102, Ph: (605) 336–2980.

Effective December 27, phone changes to (800) 592–1870.

TENNESSEE

Nashville IRS District Office, U.S. Court House, Room 159, 801 Broad Street, Nashville, Tennessee 37203, Ph: (615) 749–5101.

Suboffices within district

Chattanooga, U.S. Court House Building, 10th St. & Georgia Ave., Chattanooga, Tenn. 37401, Ph: (615) 266–3200.

Jackson, 410 Peoples Protective Towers, 646 Old Hickory Blvd., Jackson, Tenn. 38301, Ph: (901) 424–0680.

Johnson City, P.O. Box 3727, Johnson City, Tenn. 37601, Ph: (615) 926–9133.

Knoxville, U.S. Post Office & Ct. Ho., Main Ave. & Walnut St., Knoxville, Tenn. 37902, Ph: (615) 524–4011.

Memphis, Clifford David Bldg., 167 N. Main Street, Memphis, Tenn. 38103, Ph: (901) 534–3521.

TEXAS

Austin IRS District Office, 300 E. Eighth Street, Austin, Texas 78701, Ph: (512) 475–5233.

Suboffices within district

Beaumont, U.S. Courthouse & Post Office Bldg., Broadway and Willow Streets, Beaumont, Texas 77701, Ph: (713) 833–8938.

Corpus Christi, Smith Building, 425 Schatzel Street, Corpus Christi, Texas 78401, Ph: (512) 884–1901.

El Paso, El Paso International Building, 119 N. Stanton Street, El Paso, Texas, 79901, Ph: (915) 533–3676.

Harlingen, 320 Texas Reserve Building, 306–308 E. Jackson Street, Harlingen, Texas 78550, Ph: (512) 423–6550.

Houston, Federal Building & U.S. Courthouse, 515 Rusk Avenue, Room 3301, Houston, Texas 77002, Ph: (713) 226–5101.

McAllen, Federal Office Building, Main Street and E. Chicago Avenue, McAllen, Texas 78501, Ph: (512) 686–5489.

San Antonio, Kallison Building, Room 324, 434 S. Main Avenue, San Antonio, Texas 78285, Ph: (512) 225–6881.

Waco, 711 Washington Avenue, Waco, Texas 76701, Ph: (817) 756–3721.

District office and suboffices within district

Dallas IRS District Office, 1100 Commerce Street, Tenth Floor, Dallas, Texas 75202, Ph: (214) 744–3611.

Abilene, Post Office Building 2nd Floor, 3rd & Pine Streets, Abilene, Texas 79601, Ph: (915) 677–9146.

Amarillo, 317 E. Third Street, 10th Floor Herring Plaza, Amarillo, Texas 79101, Ph: (806) 376–2111.

Fort Worth, Federal Building, Room 11A01, 819 Taylor Street, Ft. Worth, Texas 76102, Ph: (817) 334–2721.

Lubbock, Federal Office Building, Room 315, 1205 Texas Avenue, Lubbock, Texas 79401, Ph: (806) 747–3711, Ext. 456.

Odessa, 1st National Bank Building, Room 610, 700 N. Grant Street, Odessa, Texas 79760, Ph: (915) 332–9481.

Tyler, 110 E. Houston Street, Tyler, Texas 75701, Ph: (214) 597–6687.

Wichita Falls, 500 1st National Building, 8th & 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.

Suboffice within district

Ogden, New Federal Building, Room 1301, 324 25th St., Ogden, Utah 84401, Ph: (801) 399–6551.

VERMONT

Burlington IRS District Office, 11 Elmwood Avenue, Burlington, Vermont 05401, Ph: (802) 862–6501 Ext. 6321.

Suboffices within district

Montpelier, 87 State Street, Montpelier, Vermont 05602, Ph: (803) 223–6348.

Rutland, Post Office & Ct. Ho. Bldg., 151 West Street, Rutland, Vermont 05702, Ph: (802) 773–9696.

VIRGINIA

Richmond IRS District Office, 400 North Eighth Street, Richmond, Virginia 23219, Ph: (703) 782–2341.

Suboffices within district

Baileys Crossroads, 5707 Seminary Road, Baileys Crossroads Branch, Falls Church, Va. 22041, Ph: (703) 557–0680.

Newport News, 708 New Market Square South, Newport News, Virginia 23605, Ph: (703) 247–0107.

Norfolk, Virginia National Bank Building, 1 Commercial Place, Norfolk, Virginia 23510, Ph: (703) 441–6234.

Roanoke, First Federal Building, No. 36 West Church Avenue, Roanoke, Virginia 24003, Ph: (703) 345–7337.

WASHINGTON

Seattle, IRS District Office, 2033 6th Avenue, Seattle, Washington 98121, Ph: (206) 442–7500.

Suboffices within district

Aberdeen, 421 W. State St. Aberdeen, Washington 98520, Ph: (206) 533–1760.

Bellingham, Federal Building, Magnolia & Cornwall Sts. Bellingham, Washington 98225, Ph: (206) 733–0110.

Everett, 2730 Hoyt Ave., Everett, Washington 98206, Ph: (206) 259–0861.

Pasco, 403 W. Lewis St., Pasco, Washington 99301, Ph: (509) 547–1711.

Spokane, 920 W. Riverside Avenue, Spokane, Washington 99201, Ph: (509) 456–2120.

Tacoma, 1305 Tacoma Avenue, Tacoma, Washington 98402, Ph: (206) 383–2021.

Vancouver, 500 W. 12th St., Vancouver, Washington 98660, Ph: (206) 695–9252.

Wenatchee, Exchange Building, 6 First Street, Wenatchee, Washington 98801, Ph: (509) 663–2645.

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) 422–8551.

Suboffices within district

Charleston, Federal Office Building & Ct. Ho., 500 Quarrier St., Charleston, W. Virginia 25301, Ph: (304) 343–6181.

Huntington, P.O. and Ct. Ho., Ninth St. & Fifth Ave., Huntington, W. Virginia 25701, Ph: (304) 529–2311.

Wheeling, Hawley Bldg., 1025 Main St., Wheeling, W. Virginia 26003, Ph: (304) 232–0151.

WISCONSIN

Milwaukee IRS District Office, Federal Building & Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, Ph: (800) 452–9100, Calls from Milwaukee (414) 271–3780.

Suboffices within district

Eau Claire, Federal Building & Courthouse, 510 S. Barstow Street, Eau Claire, Wisconsin 54701, Ph: (800) 452–9100.

Green Bay, Federal Building, 325 East Walnut Street, Green Bay, Wisconsin 54301, Ph: (800) 452–9100.

Madison, Coca Cola Building, 3536 University Avenue, Madison, Wisconsin 53701, Ph: (800) 452–9100.

Racine, Monument Square Building, 524 Main Street, Racine, Wisconsin 53403, Ph: (800) 452–9100.

WYOMING

Cheyenne IRS District Office, Federal Office Building, 21st and Carey Ave., Cheyenne, Wyoming 82001, Ph: (307) 778–2363.

THE INTERNAL REVENUE SERVICE ROLE IN THE ECONOMIC STABILIZATION PROGRAM

The Internal Revenue Service now becomes the major focal point for citizen contact with the President's Economic Stabilization Program. In addition to the duties it performed during the freeze, IRS will be exercising some important new functions.

During the freeze, the IRS provided information to the public on wages and prices through its nationwide network of taxpayer service offices, received and analyzed complaints concerning alleged violations, and conducted investigations of suspected violators. These activities are being expanded because success of the Economic Stabilization Program depends on public knowledge of its equity and fairness, on the effective communication of its provisions so that people know what they should do to comply and on the voluntary support and cooperation of every American citizen.

The IRS takes over all of the functions performed by the Office of Emergency Preparedness during the freeze. Operating in accordance with general policy guidance, regulations and other decisions of the Council, the Board, and the Commission, the IRS will establish a national mechanism to support the post-freeze program. Local and regional centers will provide information to the public, investigate 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. The IRS will also establish an administrative appeals procedure and will assist the Justice Department in preparing for litigation.

Why was the IRS chosen for this job?

Many of the functions under the Economic Stabilization Program are similar to the tax mission of the Internal Revenue Service. IRS has trained, experienced personnel throughout the country using well-established procedures involving fact-finding in the field, auditing, investigations, interpretative rulings, appeal mechanisms, issuance of guidelines and regulations for a complex program, compliance and enforcement activities, and importantly, day-to-day working contacts with all sectors of the American economy and the general public. This capability is substantially in being and makes unnecessary the establishment of a cumbersome bureaucracy which the President seeks to avoid. Finally, the concept of voluntary compliance, vital to the success of the Economic Stabilization Program, is also the underlying theory of the Federal tax system.

Can the IRS perform economic stabilization activities without impairing its tax-collecting function?

Many of the specific duties to be performed by the IRS in post-freeze period dovetail with regular tax work. For example, when a Revenue Agent visits a business firm for a tax audit, he can make wage-price checks as well. Such double-duty audits are expected to save time and effort. Similarly, IRS delinquent tax collection activities can include on-site checks for rent guideline violations. In addition, IRS taxpayer assistors, who normally provide tax help to individuals, will provide both taxpayer assistance and answer wage-price inquiries during the post-freeze.

As a part of the government-wide reduction in employment, IRS had realigned its work force to provide tax program service this year with 3,000 fewer employees than last year. Now this reduction in manpower will not be carried out, and the 3,000 man-years will be used to assure adequate staffing for stabilization activities without impairing the tax program.

In addition, IRS will be assisted in the post-freeze program by the Agricultural Stabilization and Conservation Service of the Department of Agriculture which will continue to provide wage-price information through its 2,800 local offices as they did during the freeze.

ORGANIZATION OF THE IRS

The IRS role in the Stabilization Program is directed by a newly-established office of the Assistant Commissioner for Stabilization. In each of the seven IRS regional offices there is an Assistant Regional Commissioner for Stabilization, who will supervise the wage-price activities of the offices within his jurisdiction. Below this level, there are 58 district offices, each with an assistant to the director for stabilization; and within these districts more than 300 local IRS offices participating in the stabilization program. Most of the people working on the Stabilization Program will be located in these district and local offices. Each district will have the necessary experts, including pay specialists, on the job to carry out necessary stabilization activities. This is where the average citizen is most likely to seek an answer to a wage-price question or report a complaint.

POST-FREEZE CONTROLS—QUESTIONS AND ANSWERS No. 1

The attached questions and answers are provided as a further explanation of the Phase II regulations issued by the Cost of Living Council on Friday, November 12.

Q. Do policy rulings issued by the Cost of Living Council or interpretations issued by the Office of Emergency Preparedness continue to be applicable after November 13, 1971?

A. Yes, unless such rulings or interpretations are specifically altered by regulations or published rulings issued by the Cost of Living Council, Pay Board, Price Commission or IRS.

Q. How does a private citizen or corporation obtain information or a ruling with respect to Economic Stabilization Regulations issued during the post freeze period?

A. IRS will answer inquiries and issue rulings regarding the stabilization program. All these inquiries should be directed to the appropriate IRS District or subdistrict office. All requests for rulings should be in writing and directed to appropriate IRS District offices.

Q. How do prenotifiers and reporters obtain prenotification and reporting forms?

A. These forms are available at the local offices of the Internal Revenue Service.

Q. Do different substantive rules apply to price adjustments or pay adjustments depending upon what price category or pay category applies?

A. No. 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 exemption?

A. An exemption is a general waiver of the controls for certain classes of property, services, or economic transactions.

Q. What is an exception?

A. An exception is a 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. IRS will receive and process applications for exceptions. These applications will be forwarded to the Cost of Living Council, the Pay Board or Price Commission, as appropriate, for decision.

Q. What firms are subject to prenotification and reporting?

A. Firms with annual sales or revenues of $100 million or more are subject to prenotification and reporting. In general, these firms must prenotify the Price Commission and obtain approval of proposed price increases. In addition, they must file quarterly reports with the Price Commission. These are called price category I firms. Firms with annual sales or revenues between $50 million and $100 million must file quarterly reports with the Price Commission, but they do not need to obtain advance approval of price increases. These are called category II firms.

Q. A firm with less than $50 million in sales in its most recent fiscal year is not required to submit quarterly reports or notification of price increases to the Price Commission. How is such a firm controlled?

A. The firm is subject to the rules, regulations and guidelines promulgated with respect to pricing. It must keep adequate pricing records, and those records are subject to monitoring, inspection and audit by the Internal Revenue Service.

Q. Are a firm's export sales considered in determining its reporting classification?

A. Yes, although exports are exempt from the price freeze, export sales are to be included in total annual sales or revenues for purposes of determining the category into which a firm falls.

Q. A corporation or other firm had total sales of less than $50 million in its most recent fiscal year. However, the parent organization or firm and its subsidiaries had combined total sales during that year between $50 million and $100 million. Must the firm and it subsidiaries submit a combined quarterly report of any pricing increases?

A. Yes. For purposes of determining whether a firm is a reporting firm, the total sales of the parent corporation or firm and firms which it controls directly or indirectly are to be combined as if they were a single firm.

Q. What wage and salary adjustments must be prenotified and approved?

A. Wage and salary adjustments which affect 5,000 or more employees, and all wage and salary adjustments for employees in construction must be prenotified and approved by the Pay Board before they are made effective. These are called category I pay adjustments.

Q. What wage and salary adjustments need only be reported?

A. Wage and salary adjustments which affect from 1,000 to 5,000 employees must be reported to the Pay Board. These are called category II pay adjustments.

Q. What controls are applicable to wage and salary adjustments which need not be prenotified or reported?

A. Wage and salary adjustments which affect less than 1,000 employees need not be prenotified or reported. However, they are subject to the general wage standards and compliance will be monitored. These are called category III pay adjustments.

The attached Questions and Answers are provided as a further explanation of the Phase II Regulations issued by the Price Commission on November 12, and printed in the Federal Register November 13, 1971.

Q. Are professional fees subject to post freeze stabilization program controls?

A. Yes. Such fees are prices which are governed by the regulations of the Price Commission dealing with services. They may be increased to reflect costs in effect on November 14, 1971, and 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 at the request of any tenant, prospective tenant, or representative of the Price Commission (including the Internal Revenue Service).

These records must reflect:

(1) The base price for the unit (generally—the rental he charged for at least 10% of the units like yours during the freeze base period);

(2) The reason for any difference between the base price and the maximum price he was allowed to charge you during the freeze.

Q. In determining which price category applies to a firm, the regulations look to annual sales or revenues. What are annual sales or revenues?

A. "Annual sales or revenues" means the total income of a firm during its most recent fiscal year ending prior to August 15, 1971, from whatever source derived.

Q. May a retailer or wholesaler who does not have the required display of base prices in his store raise his price?

A. No, the Price Commission regulations specifically require the retailer or wholesaler to prominently display the base price of either those 40 items in each department which have the highest sales volume or those items which amount to 50% of total dollar sales for the department, whichever is less. These displays must be posted on or before January 1, 1972 and no price increases are allowed until they are posted. The base prices of all food products (except those which are exempt) must be posted.

Q. May landlords raise rents after November 13, 1971?

A. It depends on the circumstances. The rent rules now provide that the base price for a rental unit is the rent charged for the same unit or substantially similar units during the freeze base period. This means that if at least 10% of similar apartments were being rented for a higher price during the period from July 16–August 14, the landlord may raise the rent to that level if the lease permits the increase.

Price increases in leases in which the rental price is determined by a formula may take effect. However, any increases in the rent based upon the passage of time or increases in the consumer price index shall not be allowed.

Increases in rent above the permitted base price are prohibited. Further rent guidelines will be recommended by the Rent Committee for consideration by the Price Commission.

Q. May prices be raised under existing contracts?

A. Any increase in prices must be agreed to by the parties to the contract. Additionally, any increase in prices must be in accordance with Price Commission regulations.

Q. May prices go up more than 2.5 percent?

A. Yes. Prices are to be set in accordance with Price Commission guidelines. The 2.5 percent figure represents a goal for average price increases across the entire economy. Individual price changes may be above or below that figure, depending on allowable cost increases and net profit margins.

Q. What is the base period for profit margin determination?

A. The base period for profit margin determination for manufacturers, wholesalers, retailers and service organizations is the average of any two of the individual's or firm's last 3 fiscal years ended prior to August 15, 1971. The selection of the two fiscal years is to be made by the individual or firm.

THE PAY BOARD

The following questions and answers are designed to provide guidance on initial decisions reached by the Pay Board. The answers to these questions have been developed by the staff of the Pay Board.

I—Q. What pay adjustments are affected by the new 5.5% general wage and salary standard?

A. The initial 5.5% general wage and salary standard applies to labor agreements entered into, on and after November 14, 1971. It also applies to other pay adjustment decisions made after that date whether or not reflected in a formal agreement.

II—Q. What about wage increases under existing contracts and pay practices?

A. Pay adjustments under 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 reported to the Pay Board in accordance with regulations to be issued by the Pay Board. However, they are subject to review by the Pay Board, if challenged, to determine whether any increase is unreasonably inconsistent with criteria established by the Board. The employer may continue to pay the increased wage or salary until such time as a determination of the challenge is made by the Pay Board.

Pay adjustments in the building and construction trades, regardless of the number of employees affected and regardless of when agreed upon, must be prenotified to and approved by the Construction Industry Stabilization Committee under criteria established by the Board.

III—Q. Can retroactive wage increases be paid?

A. Pay Board approval is required for any retroactive increases covering services performed during the freeze period. This approval is not automatic.

IV.—Q. What is the definition of wages and salaries?

A. Wages and salaries is 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.—Q. Are any employees excluded?

A. Federal employees whose pay is governed by federal law and employees paid at less than the federal minimum wage standard, currently $1.60 per hour, are excluded from the application of the wage and salary standards.

VI.—Q. 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.—Q. What is meant by appropriate employee unit?

A. The appropriate employee unit for the measurement of changes in wage and salary levels is a group composed of employees in a bargaining unit or recognized employee categories in a plant or other establishment, or in a department thereof, or in a company, or in an industry, as best adapted to preserve contractual or historical relationships.

VIII.—Q. Are longevity increases counted as part of the 5.5% standard?

A. Longevity increases and automatic progression within a rate range are allowed to go into effect after November 13, 1971 according to the terms of plans, agreements, or established practices in existence prior to November 14, 1971, without regard to the 5.5% 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 prenotification or reporting of a wage or salary increase. However, the employer must adhere to the 5.5% general wage and salary standard in granting increases.

Pay adjustments in the buliding and construction trades, regardless of the number of employees affected, must be prenotified to and 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 as a further explanation of decisions and 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 the base period, but the Price Commission will consider any such situation and determine whether it justifies special relief. In addition, more specific guidelines will soon be issued.

Q. Do the economic controls apply to college tuition charges?

A. Yes, tuition, as well as room and board are covered.

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 where the formula reflects only changed conditions of risk (e.g. number of claims)?

A. Yes, premium increases based on a formula in a preexisting contract which reflects only changed condtions of risk may be applied normally.

Q. If a corporate parent and its subsidiaries are located in different IRS districts, where should requests for rulings or information be filed?

A. All inquiries, ruling requests, etc. should go to the IRS District Director in the district where the parent corporation is located.

Q. Service charges such as utility, parking meter and bridge tolls were subject to Phase I while licenses and fines 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 isued by the Office of Emergency 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 admiration of the Attorney General of the United States for his forward-looking leadership respecting 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 Smithers for his outstanding leadership and dedication to the conquest of alcoholism and his significant contributions to the development of the Comprehensive Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91–616, which the Senator from Iowa (Mr. HUGHES) and I introduced with the cosponsorship of more than half 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 official, mark him as 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, entitled "To Heal, and Not To Punish" at a testimonial dinner honoring R. Brinkley Smithers, 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 alcohol abuse 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 with the present court system of handling alcoholism as "a revolving door" and that the system is, and I quote, "absolutely ineffective as a lesson or 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 Smithers. I have known and admired him for many years, and I am delighted to be able to say so to this audience tonight. I'm 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 Smithers in the generosity of his support. Through the Christopher D. Smithers Foundation, which he founded in honor of his father in 1952, 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 treatment and rehabilitation of alcoholics. This is the largest single gift ever made in this field, and I do not except even the various grants made in recent years by the Federal Government. I must confess that when I first read about this magnificent grant I thought some typesetter might have inadvertently added a cipher or two. It is a most extraordinary example of dedication to a cause, even by the generous standards of Brinkley Smithers.

Nor have the contributions of our honored guest been confined to financial values. He has given just as unstintingly of his own 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 headed.

So I must say tonight, without fear of contradiction in this assembly of experts on the subject, that among the many world leaders in the crusade against alcoholism, no one casts a longer shadow than Brinkley Smithers.

The other 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 addressed by a law enforcement official.

I refer to the fact, acknowledged now by all professionals in the field, that alcoholism as such is not a legal problem—it is a health problem. More especially, 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.

In all but a few of the states in the Union, public drunkenness is an offense punishable by a fine or jail sentence or both.

In other words, our knowledge in the field far surpasses our action. The result is that in most of the cases which come to public attention, a major disease is not being treated by doctors, therapists or medical technicians. The disease is being treated by policemen, judges, and jailers.

This is no reproach to the latter group of professionals, many of whom know from distressing experience that this system is wrong. It is a serious misuse of their time, abilities and resources. It is likewise a failure to use the skills of the medical practitioners who are the ones qualified for this work. And it is a desperate injustice to the victims of the disease.

I feel strongly about this situation partly because of its unnecessary drain on the resources of the criminal justice system. 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 house, the commitment of jail space and facilities, the commitment of time by judges, court administrators and courtrooms—all this constitutes an enormous drain on a justice system that is already overtaxed by felony cases. This misuse of tax-supported resources is bad enough, and 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 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 a four-month period.

The so-called "drying out" accomplished during such overnight jail terms has not, to anyone's knowledge, ever reformed an alcoholic. It has often, however, contributed further to any health infirmity he might have been suffering from, and has demeaned him still further with overcrowded conditions devoid of the barest human facilities.

In the process it has also demeaned the courts and the administration of American justice. Drunk arrests in big cities are often, if not usually, brought before the judge *en masse*—10 to 20 at a time. The typical defendant is almost never represented by counsel, which means that the procedures are often perfunctory, without any real consideration of guilt or innocence.

It is not surprising that many if not most of the policemen and judges involved know full well that this system is a distortion of legal processes. But in most localities they also know that it is all we have for dealing with public alcoholism. They therefore tend to develop a benevolent paternalism toward their charges—taking care of them the best they can within the limits of their authority and resources. It would be the same if the police and the judges were forced by law to take care of accident victims; as compassionate human beings they would do their best, but they could not help knowing that the system was senseless.

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 unaware of this gross injustice, 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 *Easter* case that the public drunkenness of a homeless alcoholic was involuntary. Therefore, he could not be held accountable before the law. In the same year another Appellate Court made a somewhat similar ruling in the *Driver* case.

In 1967 the United States Supreme Court heard a similar case— *Powell* 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 two appellate decisions—that a homeless alcoholic is not accountable for his act.

The important point is that the courts have decided what the experts had 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 justice system—the District of Columbia Crime Commission and the United States Crime Commission. They both reported in 1967 that public intoxication should be treated by public health services rather than as a criminal offense.

In turn, these recommendations influenced Congressional thinking, and new laws were 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 Alcoholism, 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 initiative funds for its work.

At the same time, the court cases and the Crime Commission recommendations have been noticed by the legislatures of a few states. They have changed their laws to provide for health treatment of one kind or another, and some of them have repealed the legal sanctions against alcoholism. But the rest of the states and most of the localities have not yet responded, although some legislatures are considering the matter. Throughout most of the country the situation remains as archaic as ever.

In fact, even 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, answers to some of these questions have recently been offered by several commissions that have carefully drawn up proposed model state laws on the subject. The latest and most important is the work of the National Conference of Commissioners on Uniform State Laws, which adopted a 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—by the police or a special emergency service patrol. He is to be taken to a public health facility for emergency treatment.

Second, if 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 independent 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 sanction.

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 the subject that can serve as a model for the states. 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 from the operation 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-dress medical treatment—not only a detoxification 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 make a strong appeal to voluntary enrollment. We know that the street alcoholic who in the past has been the subject of most drunk arrests 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 some of the others who may still be living in a home environment do account for many of the arrests—perhaps one-third, as the Los Angeles survey seems to indicate. 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 opportunities we now see ahead, 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 realize 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 aspects of our environmental crisis, and we have heard many theories which attemp 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 technological growth is bad, but that the environmental impacts which have occurred in the United States since 1946 result from the introduction of new productive technologies 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 products. Environmental costs, however, are not included in the prices of these goods. For example, aluminum offers a much higher profit than lumber. But aluminum has a "pollution price tag" which is approximately 10 times higher than the pollution price tag for wood.

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 further expounds his theory on 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 commend 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 stresses which, if not relieved, will eventually destroy it. We now know the full, grim truth: what is at risk in the environmental crisis is human survival.

Clearly every inhabitant of the earth ought to have an equal interest in the integrity of the environment. However, in reality there are sharp differences in national attitudes toward the issue. Especially in relation to the forthcoming 1972 United Nations Conference on the Human Environment, a striking conflict between the attitudes of industrialized and developing nations toward the environmental crisis has developed. This divergence is understandable. Three main

factors are involved in environmental pollution: growth of population; increased affluence, or production per capita; the introduction of new technology. The conflict has arisen because each of these factors has a sharply different import for industrialized and developing nations.

A commonly voiced—and, as I shall try to show, largely erroneous—idea is that environmental pollution is chiefly due to the pressure of growing population and affluence on the limited resources available from the ecosystem. On these grounds it is often asserted that control of population growth and reduction in per capita consumption are essential if environmental collapse is to be avoided. This is a foreboding outlook for the developing nations, which are struggling 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. On these grounds developing nations are sometimes advised to be wary of modern industrialization. This advice conflicts with their intense desire to bring to their peoples the material advantages which have already accrued to industrialized nations from technology.

Given such a view of the origins of the environmental crisis, the interests of industrialized and developing nations toward environmental problems do appear to be in sharp conflict. If unresolved, this conflict may have tragic effects on the urgent and difficult task, which is essential to the welfare of both industrialized and developing nations, of closing the growing gap between the quality of life enjoyed by the rich and the poor, wherever they live.

However, I believe that this conflict reflects a faulty analysis 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 propose that a fundamental solution of the environmental crisis will require that the present technological dependence of developing nations on industrialized ones be reversed in certain significant respects. Like the ecosystem itself, the environmental crisis is a global problem which demands global solutions.

In order to analyze the origins of environmental degradation 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 the product of the joint, interdigitated evolution of living things and of the physical and chemical constituents of the earth's surface. On the time scale of human life the evolutionary development of the ecosphere has been very slow and irreversible. Hence, the ecosphere is irreplaceable; if it should be destroyed, it could never be reconstituted or replaced either by natural processes or by human effort.

(3) The basic functional element of the ecosphere is the ecological cycle, in which each separate element influences the behavior of the rest of the cycle, and is in turn itself influenced by it. For example, in surface waters fish excrete organic waste, which is converted by bacteria to inorganic products; 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 step in the cycle become the necessary raw materials for the next step. Such cycles are cybernetically self-governed, dynamically maintaining a steady state condition of indefinite duration. However if sufficiently stressed by an external agency, the ecosystem may exceed the limits of self-adjustment and eventually collapse. Thus, if the aquatic cycle is overloaded with organic animal waste, the amount of oxygen needed to support waste decomposition by the bacteria of decay may be greater than the oxygen available in the water. The oxygen level is then reduced to zero; lacking oxygen, the bacteria die and this phase of the cycle stops, halting the cycle as a whole.

(4) Human beings are dependent on the ecosphere 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 societies.

(5) If we regard economic processes as the means which govern the disposition and use of resources available to human society, then it is evident from the above that the continued availability of those resources which are derived from the ecosphere (i.e., non-mineral resources), and therefore the stability of the ecosystem, is an essential prerequisite for the success of any economic system. More bluntly, any economic system which hopes to survive must be compatible with the continued operation of the ecosystem.

(6) Because the turnover rate of an ecosystem is inherently limited, there is a corresponding limit to the rate of production of any of its constituents. Different segments of the global ecosystem (e.g., soil, fresh water, marine ecosystems) operate at different intrinsic turnover rates and therefore differ in the limits of their 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. Apart from the foregoing theoretical and as yet unspecified limit of economic growth, such a limit may arise much more rapidly if the growth in the output of goods by the economic system is dependent on productive technologies which are especially destructive of the stability of the ecosystem. As will be shown below this is precisely the situation 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 intense stresses due to natural agents (such as ecologically-misplaced bodily wastes), 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 have thrown major segments of the ecosystem out of balance.

(8) Environmental pollution is the symptom of the resultant breakdown of the environmental cycles. The fouling of surface waters is largely the result of overloading the natural, limited cycle of the aquatic ecosystem either by direct dumping of organic matter, in the form of sewage and industrial wastes, or indirectly by the release of algal nutrients produced by waste treatment, or leached from over-fertilized soil. Water pollution is a signal that the natural, self-purifying aquatic ecological cycle has broken down. Similarly, air pollution is a sign that human activities have overloaded the self-cleansing capacity of the weather system to the point at which the natural winds, rain, and snow are no longer capable of cleaning the air. The deterioration of the soil shows that the soil system is being overdriven, that organic matter, in the form of food is being extracted from the cycle at a rate which exceeds the rate of rebuilding of the soil's humus. The technical expedient of attempting to evade this problem by loading the soil with inorganic fertilizer is capable of restoring the crop yield—but at the expense of increasing pollution of the water and the air.

Pollution by man-made synthetics, such as pesticides, detergents and plastics, and by the dissemination of materials not naturally part of the environmental system, such as lead and mercury, is a sign that these materials cannot be accommodated by the self-purifying 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 with the way in which human beings have occupied their habitat, the Earth. It confronts us with the need to specify what has gone wrong and why. Clearly, the fault must be due to *human* activities: the growth of population, the nature of science and technology, the means of producing, accumulating, distributing and using the wealth extracted from the earth's natural system. For no one has argued, to my knowledge, that the recent intensification of pollution on the earth is the result of some change in the natural sector, independent of man. Indeed the few remaining areas of the world that are relatively untouched by the powerful hand of man are, to that degree, free of smog, foul water and deteriorating soil. We must seek, then, to account for environmental deterioration by finding its functional relationship to human activities on the earth.

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 that environmental pollution increases with the growth of the human population.

This explanation is basically faulty, for the "neatness" of animals in nature is not the result of their own sanitary activities. On the contrary, no animal, or any other living thing, for that matter, acts on its own wastes. What removes these wastes is 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 cyclical relations remain unbroken, no substance, no waste can accumulate. Human beings pollute the environment only because their activities have broken out of the closed, cyclical network in which all other living things are held.

Indeed, at least on the relatively short time-scale that is involved in our present pollution problems, no living thing that is itself part of an ecosystem can possibly degrade it for the system's circularity enables it to adjust, automatically, to changes that arise from within. It is stressed, or polluted, usually by an outside agency.

Thus, so long as human beings held their place in the terrestrial ecosystem—consuming food produced by the soil, oxygen released by plants, returning organic wastes to the soil and carbon dioxide to the plants—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 ecosystem of which it was originally a part. Now the wastes become an *external* stress on the aquatic system into which they intrude, overwhelm the system's self-adjustment, and pollute it. Environmental pollution is therefore generated not so much by human *biological* activities, as by human *social* activities; agriculture, industry, transportation and urbanization—which greatly distort the impact of man's biological effects on a multiplicity of natural cycles, and introduce, as well, a number of unnatural effects.

Certain human activities, for example, agriculture, forestry and fishing, represent direct exploitation of the productivity of a particular ecosystem. In these cases, 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 ecosystem if collapse is to be avoided. Examples include the destructive erosion of agricultural or forest lands following overly-intense exploitation, or the incipient destruction of the whaling industry due to the extinction of whales.

Environmental stress may also arise if the amount of a particular ecosystem component is deliberately augmented from without, either to dispose of human waste or in an effort to accelerate the system's rate of turnover and thereby increase the yield of an extractable good. An example of the first sort is the dumping of sewage into surface waters. An example of the second sort is the use of fertilizer nitrogen in agriculture.

Finally, environmental degradation may be due to the intrusion into an ecosystem of a substance wholly foreign to it. Perhaps the simplest example is a synthetic plastic, which 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, if 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 damage. Hence, any productive activity which introduces substances that are foreign to the natural environment runs a significant risk of polluting it.

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 eco-system 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 areas of the globe—the United States.[1] In the United States most pollution problems are of relatively recent origin. The post-war period, 1945–46, is a convenient benchmark, for a number of pollutants—man-made radioisotopes, detergents, plastics, synthetic pesticides and herbicides—are due to the emergence, after the war, of new productive technologies. The statistical data available for this period in the United States provide a useful opportunity to compare the changes in the levels of various pollutants with the concurrent activities of the United States productive system that might be related to their environmental effects.

Although, unfortunately, we lack sufficient comprehensive data on the actual environmental levels of most pollutants in the United States, some estimates of historical changes can be made from intermittent observations, and from computed data on emissions of pollutants from their sources. Some of the available data are summarized in Table I, which indicates that since 1946, emissions of pollutants have increased by 200–2000%. In the case of phosphate, which is a pollutant of surface waters, and enters mainly from municipal sewage, data on the long term trends are available; these are shown in Figure 1.[2] In the 30-year period between 1910 and 1940 phosphorus output from municipal sewage increased gradually from about 17 million lbs./year to about 40 million lbs./year. Thereafter the rate of output rose rapidly; so that in the 30-year period 1940–1970 phosphorus output increased to about 302 million lbs./year.

It should be noted that these are data regarding the computed *emission* of pollutants, which are not necessarily descriptive of their actual concentrations in the environment or of their ultimate effects on the eco-systems or on human health. Numerous, complex and interrelated processes intervene between the entry of a pollutant into the eco-system and the expression of its biological effect. Moreover, two or more pollutants may interact synergistically to intensify the separate effects. Most of these processes are still too poorly understood to enable us to convert the amount of a pollutant entering an eco-system to a quantitative estimate of its degradative effects. Nevertheless it is self-evident that these effects (such as the incidence of respiratory disease due to air pollutants or of algal overgrowths due to phosphate and nitrate) have increased sharply, along with the rapid rise of pollutant levels, since 1946. Since pollutant emission is a direct measure of the activity of the source, it is a useful way to estimate the contributions of different sources to the overall degradation of the environment.

If we define the amount of a given pollutant introduced annually into the environment as the *environmental impact* (I), it then becomes possible to relate this value to the effects of three major factors that might influence the value of I by means of the following identity:

$$I = \text{Population} \cdot \frac{\text{Economic Good}}{\text{Population}} \cdot \frac{\text{Pollutant}}{\text{Economic Good}}$$

Here *Population* refers to the size of the United States population in a given year, *Economic Good* refers to the amount of a designated good produced (or where appropriate, consumed) during the given year, and *Pollutant* refers to the amount of a specific pollutant (defined as above) released into the environment as a result of the production (or consumption) of the designated good, during the given year. This relationship enables the estimation of the contribution of three factors to the total environmental impact: (a) the size of the population; (b) production (or consumption) per capita, i.e., "affluence;" (c) the environmental impact (i.e., amount of pollutant) generated per unit of production (or consumption), which reflects the nature of the productive technology.

Since we are concerned with identifying the sources of the sharp increases in the environmental impacts experienced in the United States in the period 1946-present, it becomes of interest to examine the concurrent changes in the nation's productive activities. The most general data relevant to these changes are presented in Figure 2. In the period 1946–68 United States population has increased, at an approximately constant rate by about 42%; GNP (adjusted to 1958 dollars) has increased exponentially by about 126% in that period; GNP per capita has also increased approximately exponentially by about 59%.

We can see at once that, as a first approximation, the contribution of population growth to the overall values of the environmental impacts generated since 1946 is of the order of 40%. In most cases, this represents a relatively small contribution to the total environmental impact, since as indicated in Table I, these values increased by 200–2000%, in that period of time.

In order to evaluate the effects of the remaining factors it is useful to examine the growth rates of different sectors of the productive economy. For this purpose a series of productive activities which are likely to contribute significantly to environmental impact and are representative of the overall pattern of the economy have been selected. From the annual production (or where appropriate, consumption) data for the United States as a whole, which are available from government statistical reports, the annual percentage rates of increase or decrease are calculated, by computer. The results of these computations are presented in Figure 3, from which it is possible to derive certain useful generalizations about the pattern of economic growth, which are relevant to environmental impacts, in the United States.

(a) Production and consumption of certain goods have increased at an annual rate about equal to the annual rate of increase of the population, so that *per capita* production remains essentially unchanged. This group includes food, fabric and clothing, major household appliances and certain basic metals and building materials, including steel and copper, and brick. In effect, with respect to these basic items average "affluence," i.e., per capita production (or consumption) has remained essentially unchanged in 1946–68.

(b) The annual production of certain goods has decreased since 1946, or has increased at an annual rate below that of the population. Horsepower produced by work animals is the extreme case; it declined at an annual rate of about 10%. Other items in this category are: saponifiable fat, cotton fiber, wool fiber, lumber, milk, railroad horsepower, and railroad freight. These are goods which have been significantly displaced in the pattern of production during the course of the overall growth of the economy. Cultivated farm acreage also declined in this period.

(c) Among the productive activities which have increased at an annual rate in excess of that exhibited by the population, the following classes can be discerned:

(i) Certain of the rapidly increasing productive activities are substitutes for activities that have declined in rate, relative to population. These generally represent technological displacement of an older process by a newer one, with the sum of goods produced remaining essentially constant, per capita, or increasing somewhat. These displacement processes include the following: (a) natural fibers (cotton and wool) by synthetic fibers; (b) lumber by plastice; (c) soap by detergents; (d) steel by aluminum and cement; (e) railroad freight by truck freight; (f) harvested acreage by fertilizer; (g) returnable by non-returnable bottles.

(ii) Certain of the rapidly growing productive activities evident in Fig. 3 are secondary consequences of displacement processes. Thus the displacement of natural products by synthetic ones involves the use of much increased amounts of synthetic organic chemicals, so that, this category has increased sharply. Moreover, since many organic syntheses require chlorine as a reagent, the rate of chlorine production has also increased rapidly. Finally, because chlorine is efficiently produced in a mercury electrolytic cell, the use of mercury for this purpose has also increased at a very considerable rate. Similarly, the rapidly rising rate of power utilization is, in part, a secondary consequence of certain displacement processes, for a number of the new technologies are more power-consumptive than the technologies which they replace.

(iii) Finally, among the rapidly growing

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productive activities evident in Fig. 3 are some which represent neither displacements of older technologies, nor sequelae to such displacements, but true increments in per capita availability of goods. An example of this category is consumer electronics (radios, television sets, sound equipment, etc.). Such items represent true increases in "affluence."

In sum, the pattern of growth in the United States economy in 1946–68 may be generalized as follows. Basic life necessities, representing perhaps ⅓ of the total GNP, have grown in annual production at about the pace of population growth, so that no significant overall change in *per capita* production has taken place in this period. However, within these general categories of goods—food, fiber and clothing, freight haulage, household necessities—there has been a pronounced displacement of natural products by synthetic ones, of power-conservative products by relatively power-consumptive ones, of reusable containers by "disposable" ones.

Given the foregoing data we can now determine the relative costs, in intensity of environmental impact, of the several distinctive features of the growth of the United States economy from 1946 to the present. An examination of this question reveals that most of the sharp increases in environmental impact which have occurred in the United States since 1946 result from the introduction of new productive technologies which generate more severe environmental impacts than the technologies which they replace. The relevant data are presented in what follows:

(1) AGRICULTURAL PRODUCTION

As shown in Fig. 3, agricultural production in the United States, as measured by the U.S. Department of Agriculture Crop Index, has increased at about the same rate as the population since 1946. However, the technological methods for achieving agricultural production have changed significantly in that period. One important change is illustrated by Fig. 4, which shows that although agricultural production per capita has increased only slightly, harvested acreage has decreased, and the use of inorganic nitrogen fertilizer has risen sharply. This displacement process—i.e. of fertilizer for land—leads to a considerably increased environmental impact.

Briefly stated the relevant ecological situation is the following.[3] Nitrogen, an essential constituent of all living things, is available to plants in nature from organic nitrogen, stored in the soil in the form of humus. Humus is broken down by bacteria to release inorganic forms of nitrogen, eventually as nitrate. The latter is taken up by the plant roots and reconverted to organic matter, such as the plant's protein. Finally the plant may be eaten by a grazing animal, which returns the nitrogen not retained in the growth of its own body to the soil as bodily wastes.

Agriculture imposes a negative drain on this cycle; nitrogen is removed from the system in the form of the plant crop or of the livestock produced from it. In ecologically sound husbandry all of the organic nitrogen produced by the soil system, other than the food itself—plant residues, manure, garbage—is returned to the soil, where it is converted by complex microbial processes to humus and thus helps to restore the soil's organic nitrogen content. The deficit, if it is not too large, can be made up by the process of nitrogen fixation—in which bacteria, usually in close association with the roots of certain plants, take up nitrogen gas from the air and convert it into organic form. If the nitrogen cycle is not in balance, agriculture "mines" the soil nitrogen, progressively depleting it. This process does more than reduce the store of organic nitrogen available 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 soil, not only as a source of nitrogen for fixation, but also because its oxygen is essential to the root's metabolic activity, which in turn is the driving force for the absorption of nutrients by the roots. In the United States, for example in Corn Belt soils, about ½ of the original soil organic nitrogen has been lost since 1880. 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 applied to this problem: sharply increasing amounts of inorganic nitrogen were applied to the soil in the form of fertilizer. Annual nitrogen fertilizer usage in the United States increased about 14-fold between 1946 and 1968.

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 ecosystem, so that each acre of soil annually produces more food than before. The economic benefits of this new agricultural technology are appreciable, and self-evident. However, this economic advantage may be counterbalanced by the increased impact on the environment. This arises because, given the reduced humus content of the soil, the plant's roots do not efficiently absorb the added fertilizer. As a result an appreciable part leaches from the soil as nitrate and enters surface waters where it becomes a serious pollutant. Nitrate may encourage algal overgrowths, which on their inevitable death and decay tend to break down the self-purifying aquatic cycle.

Excess nitrate from fertilizer drainage leads to another environmental impact, which may affect human health. While nitrate in food and drinking water appears to be relatively innocuous, *nitrate* is not, for it combines with hemoglobin in the blood, converting it to methemoglobin—which cannot carry oxygen. Unfortunately nitrate can be converted to nitrate by the action of bacteria in the intestinal tract, especially in infants, causing asphyxiation and even death. On these grounds, the United States Public Health Service has established 10 ppm of nitrate nitrogen as the acceptable limit of nitrate in drinking water. In a number of agricultural areas in the United States nitrate levels in water supplies obtained from wells, and in some instances from surface waters have exceeded 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 farmland.[4]

The effect of this change in agricultural technology is evident from Table II, which compares the influence of the several relevant factors on the total environmental impact due to fertilizer nitrogen in 1949 and 1968. During that period the total annual use of fertilizer nitrogen, i.e. the total environmental impact, increased 648 percent. The influence of population size increased by 34%; the influence of crop production per capita ("affluence") increased by 11%; the influence of the change in fertilizer technology increased by 405%. 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 *per unit crop production*, while in 1968 about 57,000 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 part of the added nitrogen does not enter the crop and must appear elsewhere in the ecosystem.

The biological basis for this effect is shown in Figure 5, which compares the corn yield in the State of Illinois, with the concurrent amounts of nitrogen fertilizer added to the soil.[5] This shows that as fertilizer levels increased the yield per acre rose, but eventually leveled off due to the natural limits of plant growth. Thus, between 1962 and 1968, fertilizer usage doubled, but crop yield rose only about 10–15%. Clearly at the higher levels of fertilizer usage an increasingly small proportion of the fertilizer contributes to the crop. As indicated earlier, the remainder leaches into surface waters where it causes serious pollution problems. Thus, this innovation in agricultural technology sharply increases the environmental stress due to agricultural production.

A similar situation exists in the case of pesticides. This is shown by the changes in the environmental impact index of pesticides between 1950 and 1967 (Table III). In that time there was a 168% increase in the amount of pesticides used *per unit crop production*, as a national average. By killing off natural insect predators and parasites of the target pest, while the latter often becomes resistant to insecticides, the use of modern synthetic insecticides tends to exacerbate the pest problems that they were designed to control. As a result *increasing* amounts of insecticides must be used to maintain agricultural productivity. For example, in Arizona insecticide use on cotton tripled between 1965 and 1967, with no significant change in yield. Insecticide usage is, so to speak, self-accelerating—resulting in both a decreased efficiency and an increased environmental impact.

Another technological displacement in agriculture is the increased use of feedlots for the production of livestock in preference to range feeding. Range-fed cattle are integrated into the soil ecosystem; they graze the soil's grass crop and restore nutrient to the soil as manure. When the cattle are maintained instead in huge pens, where they are fed on corn and deposit their wastes intensively in the feedlot itself, the wastes do not return to the soil.

Instead the waste drains into surface waters where it adds to the stresses due to fertilizer nitrogen and detergent phosphate. The magnitude of the effect is considerable. At the present time the organic waste 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.

(2) *Textiles:* Figure 6 describes changes in textile production since 1946. While total fiber production per capita has remained 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 and use.

One reason is that the energy required for the synthesis of the final product, a linear polymer (cellulose in the case of cotton, keratin in the case of wool and polyamides in the case of nylon) is greater for the synthetic material. Although quantitative data are not yet available, this is evident from the comparison of two productive processes provided by Table IV. Nylon production involves 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 chemical mixtures and to operate the reaction apparatus. In contrast, energy required for the synthesis of cotton is derived, free, from a renewable source—sunlight—and is transferred without combustion and resultant air pollution. Moreover, the

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raw material for cellulose synthesis is carbon dioxide and water, both freely available renewable resources, while the raw material for nylon synthesis is petroleum or a similar hydrocarbon—non-renewable resources. As a result it would appear that the environmental stress due to the *production* of such an artificial fiber is probably well in excess of that due to the production of an equal weight of cotton. This is only an approximation, for we need far more detailed, quantitative estimates, in the form of the appropriate environmental impact indices, that would also take into account the fuel and other materials used in the production of cotton.

Because a synthetic fiber such as nylon is unnatural, it also has a greater impact on the 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 which is essential to the natural fertility of the soil. In this process cellulose is readily broken down in the soil ecosystem. Thus, in nature, cellulose and keratin are simply *not* "wastes", because they provide essential nutrients for soil microorganisms. Hence they cannot accumulate.

This results from the crucial fact that for every polymer which is produced in nature by living things, there exist in some living things enzymes which have the specific capability of degrading that polymer. In the absence of such an enzyme the natural polymers are quite resistant to degradation, as evident from the durability of fabrics which are protected from biological attack.

The contrast with synthetic fibers is striking. The structure of nylon and similar synthetic polymers is a human invention and does not occur in natural living things. Hence, unlike natural polymers, synthetic ones find no counterpart in the armamentarium of degradative enzymes in nature. Ecologically, synthetic polymers are literally indestructible. Hence, every bit of synthetic fiber or polymer that has been produced on the earth is either destroyed by burning—and thereby pollutes the air—or accumulates as rubbish. One result, according to a recent report, is that microscopic fragments of plastic fibers often red, blue or orange, have now become common in certain marine waters.[6] For technological displacement has been at work in this area too; in recent years natural fibers such as hemp and jute have been nearly totally replaced by synthetic fibers in fishing operations. A chief reason for this use of synthetic 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.

(3) DETERGENTS

Figure 7 shows that synthetic detergents have largely replaced soap in the United States as domestic and industrial cleaners, with the total production of cleaners per capita remaining essentially unchanged. Soap is based on a natural organic substance, fat, which is reacted with alkali to produce the end product. Being a natural product, fat is extracted from an ecosystem (for example that represented by a coconut palm plantation), and when released into an aquatic ecosystem after use, soap is readily degraded by the bacteria of decay. Since most municipal wastes in the United States are subjected to treatment which degrades organic waste to its inorganic products, in actual practice the fatty residue of soap wastes is degraded by bacterial action within the confines of a sewage treatment plant. What is then emitted to surface waters is only carbon dioxide and water. Hence, there is little or no impact on the aquatic ecosystem due to biological oxygen demand (which accompanies bacterial degradation of organic wastes) arising from soap wastes. Nor is the product of soap degradation, carbon dioxide, usually an important ecological intrusion since it is in plentiful supply from other environmental sources, and in any case is an essential nutrient for photosynthetic algae. Hence, as compared with soap the production of synthetic detergents is a more serious source of pollution.

Once used and released into the environment in waste, detergents generate a more intense environmental impact than a comparable amount of soap. Soap is wholly degradable to carbon dioxide, which is usually rather innocuous in the environment. In contrast even the newer detergents which are regarded as degradable because the paraffin chain of the molecule (being unbranched, in contrast with the earlier non-degradable detergents) is broken down by bacterial action, nevertheless leave a residue of phenol which may not be degraded and may accumulate in surface waters. Phenol is a rather toxic substance, being foreign to the aquatic ecosystem.

Unlike soap, detergents are compounded with considerable amounts of phosphate in order to enhance their cleansing action and as a water softener. Phosphate may readily induce water pollution by stimulating heavy overgrowths of algae, which on dying release organic matter into the water and thus overburden the aqueous ecosystem. Figure 8 shows that nearly all of the increase in sewage phosphorus in the United States can be accounted for by the phosphorus content of detergents. Since soap, which has been displaced by detergents, is quite free of phosphate the environmental impact due to phosphate is clearly a consequence of the technological change in cleaner production.

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 1845%. The increase in the effect of population size was 42%; the effect of per capita use of cleaners does not change; the technological factor, i.e., that due to the displacement of phosphate-free soap by detergents containing an average of about 4% phosphorus, increased about 1270%. The relative importance of this change in cleaner technology in intensifying environmental impact is quite evident.

(4) SECONDARY ENVIRONMENTAL EFFECTS OF TECHNOLOGICAL DISPLACEMENTS

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 synthesis releases into the environment a wide variety of reagents and intermediates, which are foreign to natural ecosystems and often toxic, thus generating important, often poorly understood, environmental impacts. A common example are massive fish kills and plant damage resulting from release of organic wastes, insecticides and herbicides to surface waters or the air.

Perhaps the most serious environmental impact attributable to the increased production of synthetic organic chemicals is due to the intrusion of mercury into surface waters. This effect is mediated by chlorine production. This substance is a vital reagent in many organic synthesis; about 80% of present chlorine production finds its end use in the synthetic organic chemical industry. Moreover, a considerable proportion of chlorine production is carried out 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 means, for example, that the substitution of nylon for cotton has generated an intensified environmental impact due to mercury, for nylon production (unlike cotton production) involves the use of chlorinated intermediates, therefore of chlorine, and hence the release of mercury into the environment.

Similarly the displacement of steel and lumber by aluminum adds to the burden of air pollutants, for aluminum production is extremely power consumptive. Per pound of aluminum produced, about 29,860 BTU's of power are required to generate the necessary electricity whereas about 4,615 BTU's are used per pound of steel produced. Cement, which tends to displace steel in construction is also extremely power consumptive. The production of chemicals, aluminum and cement account for about 56% of the total industrial use of electricity in the United States.

(5) PACKAGING

The displacement of older forms of packaging by "disposable" containers, such as non-returnable bottles is another example of the intensification of environmental impact due to the postwar pattern of U.S. economic growth. This is illustrated in Fig. 10 and Table VI. Here it is evident that there has been a very striking increase in environmental impact due to beer bottles, which are not assimilated by ecological systems and are, in their manufacture, quite power consumptive. It is also evident that the major factor in this intensified environmental impact is the new technology—the use of non-returnable bottles to contain beer—rather than "affluence" with respect to per capita consumption of beer, or increased population.

(6) AUTOMOTIVE VEHICLES

Finally there is the problem of assessing the environmental impact of changes in patterns of passenger travel and freight traffic since 1946. Particularly important has been the increased use of automobiles, buses and trucks.

The environmental impact of the internal combustion engine is due to the emission of nitrogen oxides, carbon monoxide, waste fuel and lead. The intensities of these impacts, as measured by the levels of these pollutants in the environment is a function, not only of the vehicle-miles travelled, but also of the nature of the engine itself—i.e., technological factors are relevant as well.

The technological changes in automotive engines since World War II have worsened environmental impact. These are illustrated in Fig. 11. Thus, for passenger automobiles, overall mileage per gallon of fuel declined from 14.97 in 1949 to 14.08 in 1967, largely because average horsepower increased from 100 to 240. Another important technological change was in average compression ratio, which increased from about 5.9 to 9.5 in 1946–68. This engineering change has had two important effects on the environmental impact of the gasoline engine. First increasing amounts of tetraethyl lead are needed as a gasoline additive in order to suppress the engine knock that occurs at high compression rations. As shown in Fig. 12, annual use of tetraethyl lead has increased significantly in 1946–68. 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 is 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 compression ratio has been a rise in the concentration of nitrogen oxides emitted in engine exhaust. This has occurred because the engine temperature increases with compression ratio. The combination of nitrogen and oxygen, present in the air taken into the

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engine cylinder, to form nitrogen oxides is enhanced at elevated temperatures. Nitrogen oxide is the key ingredient in the formation of photochemical smog. Through series of light-activated reactions, involving waste fuel, nitrogen oxides induce the formation of peroxyacetyl nitrate, the noxious ingredient of photochemical smog. Smog of this type was first detected in Los Angeles in 1942–3; it was unknown in most other United States cities until the late 1950's and 1960's, but is now a nearly universal urban pollutant. Peroxyacetyl nitrate is a toxic agent, to man, agricultural crops and trees. Introduction of this agent has probably increased by about an order of magnitude in 1946–68.

The Environmental Impact Indices for nitrogen oxides and lead are shown in Tables VII and VIII respectively. The total environmental impact for nitrogen oxides increased by about 630% between 1946 and 1967. The technological factor (the amount of nitrogen oxides emitted per vehicle-mile) increased by 158%, vehicle-miles travelled per capita increased by about 100%, and the population factor by about 41%. In the case of tetraethyl lead, the largest increase in impact is in vehicle-miles travelled per capita (100%), followed by the technological factor (83%) and the population factor (41%). It is evident that the major influences on automotive air pollution are increased per capita mileage (in part because of changes in work-residence distribution due to the expansion of suburbs) and the increased environmental impact per mile travelled due to technological changes in the gasoline engine.

A similar situation obtains with respect to overland shipments of inter-city freight. Here truck freight has tended to displace railroad freight. And again the displacing technology has a more severe environmental impact than does the displaced technology. This is evident from the energy required to transport freight by rail and truck: 624 BTU/ton-mile by rail and 3462 BTU/ton-mile by truck. It should be noted as well that the steel and cement required to produce equal lengths of railroad and expressway (suitable for heavy truck traffic) differ in the amount of power required in the ratio 1 to 3.6. This is due to the rather power consumptive nature of cement production and to the fact that four highway lanes are required to accommodate heavy truck traffic. In addition, the divided roadway requires a 400 foot right-of-way while a train roadbed needs only 100 feet. In all these ways the displacement of railroads by atuomotive vehicles, not only for freight, but also for passenger travel, has intensified the resultant environmental impact.

SOME CONCLUSIONS

The data presented above reveal a functional connection between economic growth—at least in the United States since 1946—and environmental impact. It is significant that the range of increase in the computed environmental impacts agrees fairly well with the independent measure of the actual levels of pollutants occurring in the environment. Thus, the increase in environmental impact index for tetraethyl lead computed from gasoline consumption data for 1946–67 is about 400%; a similar increase in environmental lead levels has been recorded from analyses of layered ice in glaciers.[7] Similarly, the 648% increase in the 19-year period 1949–68 in the environmental impact index computed for nitrogen fertilizer is in keeping with the few available large-scale field measurements. Thus, field data show that nitrate entering the Missouri River as it traversed Nebraska in the 6-year period 1956–62 increased a little over 200%.[8] The environmental impact indices computed for several aspects of automotive vehicle use are also in keeping with general field observations. It is widely recognized that the most striking increase among the several aspects of environmental deterioration due to automotive vehicles, has occurred with respect to photochemical smog. This pollutant was detected for the first time in Los Angeles in 1942–43.

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 1946–68 total use of automotive vehicles, as measured by gasoline consumption, increased by only about 200%—an increment too small to account for the concurrent rise in the incidence of photochemical smog. It is significant, then, that this disparity between the observed increase in smog levels and the increase in 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 630% in 1946–67.

These agreements with actual field data support the conclusion that the computations represented by the environmental impact index provide a useful approximation of the changes in environmental impact associated with the relevant features of the growth of the United States economy since 1946. In particular, we can therefore place some reliance on the subdivision of the total 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 relative contributions of increases in population size and in "affluence," and of changes in the technology of production, to the increases in total environmental impact which have occurred since 1946. The ratio of the most recent total index value to the value of the 1946 index (or to the value for the earliest year for which the necessary data are available) is indicative of the change in the total impact over this period of time. The relative contributions of the several factors to these total changes is then given by the ratios of their respective partial indices. Figure 13 reports such comparisons for the 6 productive activities evaluated. The population factor contributes only between 12 and 20% of the total changes in impact index. For all but the automotive pollutants, the "affluence" factor makes a rather small contribution—no more than 5%—to the total changes in impact index. For nitrogen oxides and tetraethyl lead (from automotive sources), this factor accounts for about 40% of the total effect, reflecting a considerable increase in the number of vehicle-miles travelled per capita since 1946. The technological changes in the processes which generate the various economic goods, contribute from 40–90% 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 rapid increase of suburban residences in the United States and the concomitant failure to provide adequate railroad and other mass transportation to accommodate to this change. That the overall increase in vehicle-miles travelled per capita since 1946 (about 100%) is related to increased residence-work travel incident upon this change is suggested by the results of a 1963 survey. It was found that 90% of all automobile trips, representing 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 probably appropriate to regard the increase in per capita vehicle-miles travelled by automobile as not totally attributable to increased "affluence," but rather as a response to new work-residence relationships 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 is due to one of the three factors that influence environmental impact—the technology of production—and that both population growth and increase in "affluence" exert a much smaller influence. Thus the chief reason for the sharp increase in environmental stress in the United States is the sweeping transformation in production technology in the post-war period. Productive activities with intense environmental impacts have displaced activities with less serious environmental impacts; the growth pattern has been counter-ecological.

The foregoing conclusion is easily misconstrued to mean that technology is therefore, per se, ecologically harmful. That this interpretation is unwarranted can be seen from the following examples.

Consider the following simple transformation of the present, ecologically-faulty, relationship among soil, agricultural crops, the human population and sewage. Suppose that the sewage, instead of being introduced into surface waters as it is now, whether directly or following treatment, is instead transported from urban collection systems by pipeline to agricultural areas, where—after appropriate sterilization procedures—it is incorporated into the soil. Such a pipeline would literally reincorporate the urban population into the soil's ecological cycle, restoring the integrity of that cycle, and incidentally removing the need for inorganic nitrogen fertilizer—which also stresses the aquatic cycle. Hence the urban population is then no longer external to the soil cycle and is therefore incapable either of generating a negative biological stress upon it or of exerting a positive ecological stress on the aquatic ecosystem. But note that this state of zero environmental impact is not achieved by a return to "primitive" conditions, but by an actual technological advance, the construction of a sewage pipeline system.

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 more than a rather small fraction of all the gold ever acquired by human beings into the ecosphere. Because we value it so highly very little gold is "lost" to the environment. In contrast, most of the mercury which has entered commerce in the last generation has been disseminated into the environment, with very unfortunate effects on the environment. Clearly, given adequate technology—and motivation—we could be as thrifty 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 improvement of that technology to the point of satisfactory compatability with the ecosystem.

Generally speaking then, it would appear possible to reduce the environmental impact of human activities by developing alternatives to ecologically-faulty activities. This can be accomplished, not by abandoning technology and the economic goods which it can yield, but by developing *new* technologies which incorporate not only the knowledge of the physical sciences (as most do moderately well; the new machines do, after all, usually produce their intended goods), but ecological wisdom as well.

The foregoing considerations show that the deterioration of the environment, whatever its cost in money, social distress and personal suffering, is chiefly the result of the ecologically-faulty technology which has been employed to remake productive enterprises. The resulting environmental impacts stress the basic ecosystems which

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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, chemical manufacturing, insecticides, herbicides, chlorine production, oil drilling, oil transport, supersonic aviation, nuclear power generation, 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 reversal 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 trends developed since 1946. We might estimate the cost of the 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 stock of 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 1968 when, as we have seen, most of the ecologically faulty enterprises were built, amounts 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 the period of grace—the time available before serious large-scale ecological catastrophes overtake us—let us say twenty-five years, then the cost 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 ecological rather than conventional economic imperatives.

FOOTNOTES

[1] Commoner, Barry, The Environmental Cost of Economic Growth, Paper prepared for presentation at Resources for the Future Forum on "Energy, Economic Growth, and the Environment" Washington, D.C., April 20, 1971. In press.

[2] Weinberger, L. W., Stephan, D. G. and Middleton, F. M., *Annals New York Academy of Sciences 136*, p. 131–154 (1966).

[3] Commoner, Barry, Threats to the Integrity of the Nitrogen Cycle; Nitrogen Compounds in Soil, Water Atmosphere and Precipitation, *Global Effects of Environmental Pollution* Symposium organized by American Association for the Advancement of Science, Dallas, Texas, December 1968, edited by S. Fred Singer, Reidel, Dordrecht-Holland (1970).

[4] Kohl, D. H., Shearer, G. B. and Commoner, Barry, Isotopic Analysis of the Movement of Fertilizer Nitrogen into Surface Water. In press 1971.

[5] Dawes, J. H., Larson, T. E. and Harmeson, R. H., Proceedings 24th Annual Meeting, Soil Conservation Society of America, Ft. Collins, Colo. (1968) p. 94–102.

[6] See note in *Marine Pollution Bulletin 2*, p. 23, February 1971.

[7] Patterson, C. C., *Environment 10*, p. 72 (1967).

[8] Commoner, Barry, Threats to the Integrity of the Nitrogen Cycle: Nitrogen Compounds in Soil, Water, Atmosphere and Precipitation. ibid.

TABLE I.—POSTWAR INCREASES IN POLLUTANT EMISSIONS

Pollutant	Annual production				Percent increase over indicated period
	Year	Amount	Year	Amount	
Inorganic fertilizer nitrogen.	1949	0.91×10^6 tons	1968	6.8×10^6 tons	648
Synthetic organic pesticides.	1950	286×10^6 lbs	1967	$1{,}050\times10^6$ lbs	267
Detergent phosphorus	1946	11×10^6 lbs	1968	214×10^6 lbs	1,845
Tetraethyl lead [1]	1946	0.048×10^6 tons	1967	0.25×10^6 tons	415
Nitrogen oxides [1]	1946	10.6 [2]	1947	77.5 [2]	630
Beer bottles	1950	6.5×10^6 gross	1967	45.5×10^6 gross	595

[1] Automotive emissions.
[2] Dimension = NO_x (p.p.m.) times gasoline consumption (gals.$\times10^{-6}$); estimated from product of passenger vehicle gasoline consumption and p.p.m. of NO_x emitted by engines of average compression ratio 5.9 (1946) and 9.5 (1967) under running conditions, at 15-in. manifold pressure NO_x emitted: 500 p.p.m. in 1946; 1,200 p.p.m. in 1967 (ref.).

TABLE II.—FERTILIZER NITROGEN (ENVIRONMENTAL IMPACT INDEX)

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Crop production, population (production units/capacity)	Fertilizer nitrogen, crop production (tons/production unit)	Total index, fertilizer nitrogen (1,000's of tons)
1949	149,304	5.43×10^{-7}	[1] 11,284	914
1968	199,846	6.00×10^{-7}	57,008	6,841
1968:1949	1.34	1.11	5.05	7.48
Percent increase	34	11	405	648

[1] The crop output index is an indicator of agricultural productivity with the 1957–59 average equals 100.

TABLE III.—SYNTHETIC ORGANIC PESTICIDES

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Crop production population (crop production units/capacity)	Pesticide consumption crop production (1,000 lbs./production unit)	Total index (a, x, b, x, c), synthetic organic pesticides (million lbs.)
1950	151,868	5.66×10^{-7}	3,326	286
1967	197,859	5.96×10^{-7}	8,898	1,050
1967:1950	1.30	1.05	2.68	3.67
Percent increase 1967:1950	30	5	168	267

TABLE IV.—COTTON AND NYLON (ENVIRONMENTAL CHARACTERISTICS)

	Cotton	Nylon	Comparative environmental impact
Raw materials	CO_2, H_2O	Petroleum	Cotton, renewable, nylon, nonrenewable.
Process	CO_2+H_2O light→ Glucose→cellulose (about 70–90°F.).	Petroleum (distill→ Benzene (550°F.)→	Fuel combustion and resultant air pollution: probably Nylon> cotton.
	Cultivation, ginning, spinning, require power.	Cyclohexane (300°F.)→ Cyclohexanol (200–400°F.)→ Adipic acid (600–700°F.)→ Adiponitrile (200–250°F.)→ Hexamethylene diamine→ Nylon 610 Distillation and other purification at most of above steps; power required to operate process.	
Product	Cellulose	Polyamide	Cellulose wholly biodegradable, polyamide not degradable.

TABLE V.—DETERGENT PHOSPHORUS (ENVIRONMENTAL IMPACT INDEX)

	Index factors			
	(a)	(b)	(c)	Total impact (a, x, b, x, c), phosphorus from detergents [2] (10^6 lbs.)
	Population (1,000's)	Cleaners,[1] population (lbs./cap.)	Phosphorus, cleaners (lbs./ton of cleaner)	
1946	140,686	22.66	6.90	11
1968	194,846	15.99	137.34	214
1968: 1946	1.42	.69	19.90	19.45
		[3] (1.00)	(13.70)	
c t increase 1946–68	42	(0)	(1,270)	1,845

[1] Assuming that 35 percent of detergent weight is active agent.
[2] Assuming average phosphorus content of detergents equals 4 percent.
[3] Because of uncertainties regarding the content of active agent in detergents, especially soon fter their introduction, the apparent reduction in per capita use of cleaners is not regarded as 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)

	Index Factors			
	(a)	(b)	(c)	Total index (a, x, b, x, c), beer bottles (1,000 gross)
	Population (1,000's)	Beer consumption, population (gal./cap.)	Beer bottles, beer consumption (bottles/gal.)	
1950	151,868	24.99	0.25	6,540
1967	197,859	26.27	1.26	45,476
1967:1950	1.30	1.05	5.08	6.95
Percent increase 1950–67	30	5	408	595

TABLE VII.—NITROGEN OXIDES (PASSENGER VEHICLES) ENVIRONMENTAL IMPACT INDEX

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Vehicle-miles, population	Nitrogen oxides,[1] vehicle-miles	Total index, nitrogen oxides [1]
1946	140,686	1,982	33.5	10.6
1967	197,849	3,962	86.4	77.5
1967: 1946	1.41	2.00	2.58	7.3
Percent increase	41	100	158	630

[1] Dimension equals NO_x (p.p.m.) times gasoline consumption (gals. $\times 10^{-9}$). Estimated from product of passenger vehicle gasoline consumption and p.p.m. of NO_x emitted by engines of average compression ratio 5.9 (1946) and 9.5 (1967) under running conditions, at 15-in. manifold pressure: 1946, 500 p.p.m. NO_x; 1967, 1,200 p.p.m. (data from ref.).

TABLE VIII.—TETRAETHYL LEAD (ENVIRONMENTAL IMPACT INDEX)

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Vehicle-miles, [1] population (vehicle-mile/cap.)	Tetraethyl lead [2] vehicle-miles [1] (lbs./million vehicle-mile)	Total index, tetraethyl lead [2] (1,000's of tons)
1946	140,686	[3] 1,984	[3] 300	[3] 48
1967	197,859	3,962	630	247
1967:1946	1.41	2.00	1.83	5.15
Percent increase	41	100	83	415

[1] Passenger vehicles only.
[2] Weight refers to lead content.
[3] See note for table IX.

FIGURE 1 (not printed in RECORD). Phosphorus emitted by United States municipal sewage. Data are from Weinberger, L. W., *et al.* in Hearings before the Subcommittee on Science, Research and Development of the House Committee on Science and Astronautics, *The Adequacy of Technology for Pollution Abatement*, Vol. II, U.S. Government Printing Office, Washington, D.C. p. 756.

FIGURE 2 (not printed in RECORD). Changes in population, Gross National Product (reduced to 1958 dollars) and GNP per capita for the United States since 1946. Data are from Department of Commerce, *Statistical Abstract of the United States*, U.S. Government Printing Office, Washington, D.C., 1970, p. 5 and Department of Commerce, *The National Income and Product Accounts of the United States 1929–1965*, U.S. Government Printing Office, Washington, D.C., 1966, pp. 4–5.

FIGURE 3 (not printed in RECORD). Annual growth rates of production (or consumption) in the United States. Annual data are from Statistical Abstract of the United States, op. cit., 1948–1970; see text for method of computation.

FIGURE 4 (not printed in RECORD). 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., 1967, pp. 531, 544, 583; 1970, pp. 444, 454, 481.

FIGURE 5 (not printed in RECORD). Corn yield and nitrogen usage for the State of Illinois. Data are from Dawes, J. H., *et al.* Proc. 24th Ann. Meeting Soil Conservation Society of America, Fort Collins, Colo., 1968.

FIGURE 6 (not printed in RECORD). Natural and synthetic fiber production in the United States since 1946. Data are from *Statistical Abstract of the United States*, op. cit., 1962. p. 198; 1966, p. 789; 1970, p. 713.

FIGURE 7 (not printed in RECORD). Total soap and detergent production and per capita 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. 149. Detergent data represent actual content of surface-active agent, which is estimated at about 37.5% of the total weight of the marketed detergent.

FIGURE 8 (not printed in RECORD). Concurrent values of phosphorus output from municipal sewage in the United States and phosphorus content of detergents produced. Former values are from Weinberger, L. W., *et al.* (see Legend, Figure 1). Detergent data are based on detergent production (see Legend, Figure 7) assuming an average of 4% P in marketed detergents.

FIGURE 9 (not printed in RECORD). Changes in annual production of synthetic organic compounds and of chlorine gas, and consumption of mercury for chlorine gas production in the United States since 1946. Data are from Bureau of the Census, *Current Industrial Reports, Series M28A Inorganic Chemicals and Gases* and from *Statistical Abstract of the United States*, op cit.

FIGURE 10 (not printed in RECORD). Per capita consumption of beer and production of beer bottles in the United States. Data are from *Statistical Abstract of the United States*, op cit., 1951, p. 792; 1955, p. 833; 1970, p. 12.

FIGURE 11 (not printed in RECORD). 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. Gasoline consumption data are from *Statistical Abstract of the United States*, op cit.

FIGURE 12 (not printed in RECORD). 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 13 (not printed in RECORD). Relative contributions of several factors to changes in environmental impact indices. The contributions of population size, "affluence" (production per capita), and technological characteristics (amount of pollutant 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. GRAVEL. Mr. President, there are many reasons why it is impossible to take our so-called "energy crisis" seriously. Untapped sunpower, 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 organic waste per year. That amount of garbage could be converted into about 400 million barrels of oil. This source alone could permit nearly an 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 originates. 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 animal waste on feedlots is regarded as "a pollution problem."

Meanwhile, the Bureau of Mines in the Department of the Interior has already succeeded in making 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 worrisome 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 biosphere.

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, Elburt 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 will give us enough information to make a preliminary engineering design and cost estimate of the process. If this appraisal shows the concept and process continues to have promise, we will request funds for a Development Plan that would take several years and cost $15 to $20 million.

Substantial interest in our proposed process has been expressed by oil companies, the chicken industry, cattle feed lot operators, and public officials. Prompt construction of a full-scale plant has even been suggested. We believe, however, that attempts at commercial application 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 a heavy oil by heating in the presence of carbon monoxide and steam under pressure.

2. A high-temperature version, conducted at 380° C, and a low-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 and on a pilot plant scale 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 Enginering News.

Mr. President, I ask unanimous consent to have 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 Replenishable Energy Source," by Drs. Appell, Fu, 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 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.

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 water on this process have 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.

The work of this research team is being performed in Pennsylvania at the Pittsburgh Energy Research Center, U.S. Bureau of Mines.

HIGH-BTU GAS

At the University of Wyoming College of Engineering in Laramie, Prof. Ed J. Hoffman and his research team have been performing similar feats by making high-B.t.u. gas out of waste paper, polyethylene plastic bottles, shredded tire rubber, manure, and sewer sludge.

Their speciality is the gasification of coal in cooperation with the Office of Coal Research; the conversion of organic waste to gas was performed more or less for the sake of knowing.

Referring to organic waste, Professor Hoffman says:

Whenever feasible, organic wastes are best returned to the soil. In instances, however, in which this may not be possible, production of a desirable product would be a reasonable alternative.

LOOKING TO THE SUN

Pointing out that organic materials are just stored sunpower, Professor Hoffman concludes that solar energy is the ultimate source of future fuel:

All other energy sources can be exhausted, are being exhausted. That leaves only solar energy, which is the 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 billion tons annually, dwarfing the 250 million tons of household, commercial, and municipal solid wastes generated yearly 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 would 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. Along the way, Dr. Herbert R. Appell and Dr. Irving Wender discovered that one of the processes they were investigating could be used to dispose of urban wastes—garbage—by converting it to oil (C&EN, Nov. 17, 1969, page 43).

DELUGE

After the center publicized its findings, Dr. Mills tells C&EN, it was deluged with a variety of other materials for testing. But, "We came to realize that the [quantity of] so-called agricultural waste was about 10 times larger than [urban] waste, and this brings a new dimension—not so much getting rid of 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 1200 p.s.i. and heated at 380° 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 hydrocarbon, so that this 47% in these terms represents maybe a 96% theoretical yield." This was the highest yield from any of the materials examined.

The center has begun to study the mechanism of the reaction and current thinking is that the reaction proceeds through a formate ion, "But we really don't know yet," says the division of coal's staff research coordinator, Dr. John S. Tosh. They do know, however, that the combination 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 cellulosic materials. That product is a heavy oil with an energy content of 14,000 to 16,000 B.t.u. per pound. For comparison, normal oil has a B.t.u. value of about 20,000, and coal's is between 7,000 and 12,000, 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 2% and an oxygen content of about 9%, which makes it difficult to refine the material into gasoline, Dr. Tosh says. But the oil also has a sulfur content of 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 prevent urban air pollution.

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 for the conversion—energy that can be provided by burning either manure or a small amount of the product. (Burning manure directly for 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 more chickens in the U.S. than there are people in the world." If all of the so-called agricultural wastes were collected and converted, "You'd make about half this country's oil supply—in other words, about 2.45 billion barrels of oil per year. You're not going to collect it all," he concludes, "but at least this shows it's of a significant dimension."

EXHIBIT 2

[Bureau of Mines Report of Investigations, 1971]

CONVERTING ORGANIC WASTES TO OIL—A REPLENISHABLE ENERGY SOURCE

(By H. R. Appell,[1] Y. C. Fu,[1] Sam Friedman,[2] P. M. Yavorsky,[3] and Irving Wender[3])

Pittsburgh Energy Research Center, Pittsburgh, Pa.

(NOTE.—Figures referred to are not printed in the RECORD.)

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ABSTRACT

The Bureau of Mines is experimentally converting cellulose, the chief constituent of organic solid waste, to a low-sulfur oil. All types of cellulosic 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 4,000 psig, and in the presence of various catalysts and solvents. Cellulose conversions of 90 percent and better (corresponding to oil yields of 40 to 50 percent) have been obtained.

A continuous reactor for use at maximum conditions up to 500° 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 30 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 people regard organic wastes (chiefly compounds of carbon, hydrogen, and oxygen) as simply the remainder after cans and bottles are removed from urban wastes. Although such urban wastes are indeed a huge source of organic material, other replenishable and continually increasing sources of organic solid wastes are now adding each year to the glut spreading over our land. Not only can essentially all of them be recycled, but they can furnish much of our energy in the form of low-sulfur liquid fuels.

The total of various solid organic wastes generated yearly in the United States is about 3 billion tons.[4] Agricultural wastes generated total 2.5 billion tons, of which about 2 billion tons are manure.[5] Total urban wastes generated, including domestic, municipal, industrial and commercial, is 400 million tons per year. The population is rising and so is the amount of solid wastes rejected per person. Discards collected by private and municipal agencies have almost tripled in the last 40 years, from 2.2 pounds to 6.0 pounds per day per person. Predictions call for doubling even this latter rate long before the end of the twentieth century.[6]

The Bureau of Mines has developed a process for converting solid organic wastes to a low-sulfur oil potentially suitable for use by powerplants or for conversion to gasoline and diesel fuels. Two billion tons of waste per year, containing about 50 percent organic matter, 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 is, of course, the basis of cellulose production.

An earlier report[7] described a method of converting organic urban refuse, waste paper, and sewage sludge to oil by treating these materials with carbon monoxide and water. A heavy oil was obtained when this reaction was carried out at high temperatures and high pressures; at low temperatures and moderate pressures, the product was a soft, bitumenlike solid.

This paper describes the results of experimental work conducted since the first report. Of special interest is that the process has been found applicable to wood wastes and to the conversion of bovine manure (animal wastes constitute over a billion and a half tons per year). This report also describes a continuous bench-scale unit that was recently constructed and operated. Initial trials were 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 novel system that did not use hydrogen, the Bureau discovered that treating low-rank coals with carbon monoxide and water converted them to a low-sulfur, benzene-soluble oil in good yields.[8] Indeed, at 350° to 400° C the reaction of coal with carbon monoxide and water is more rapid than the reaction of coal with hydrogen.

In an effort to understand why the reaction of coal with carbon monoxide and water went so well, a comparison was made of the reactions of several model compounds with hydrogen and with carbon monoxide plus water. Olefins, aromatics, etc., added more hydrogen in the presence of hydrogen gas; but for two model substances tested (cellulose and lignin, the chief constituents of growing plants), the reaction with carbon monoxide and water was more rapid and complete. Urban refuse, waste paper, and even sewage sludge were converted to oil in this way.[9]

REACTANTS

Substrates

Cellulosic materials, all other carbohydrates, wood wastes (largely cellulose and lignin), urban wastes (mostly cellulose plus other carbohydrates, proteins, fats, and small amounts of other organic materials), sewage sludge, agricultural wastes, and bovine manure can be converted to oil with carbon monoxide and water. Some plastics depolymerize and dissolve in the product oil; some remain as part of the unconverted residue. But since the plastic content of urban refuse is relatively small, the presence of these materials is expected to have only a minor influence on oil composition and yield.

Carbon monoxide

Carbon monoxide and water react to form hydrogen and carbon dioxide in the following water-gas shift reaction:

$$CO + H_2O \rightleftarrows CO_2 + H_2.$$

Because some hydrogen adds 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 is somewhat costly, and as little of it as possible should be used. Earlier work[10] showed that carbon monoxide consumption at lower temperatures (250° C) 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 (mixtures of CO and H_2), it would be best to use the cheaper synthesis gas directly. This is entirely possible, and although its use will raise 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, which many people have termed "artificial coal." It does resemble coal in many ways. A similar char forms when cellulose is heated to the same temperatures in the presence of hydrogen. The addition of water along with hydrogen has little effect. But heating cellulose with carbon monoxide and water converts it to 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 take part 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, additional roles. Dehydration of cellulose 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 decarboxylation (loss of CO_2) is greater and dehydration is less than compared with reaction in the presence of hydrogen.

Water

The original experiments with carbon monoxide on low-rank coal (lignite) 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 reaction. Cellulose forms water on being heated; and adding water plus carbon monoxide improves the oil yield.

Footnotes at end of article.

However, added water also shifts the water-gas reaction in the direction of more carbon dioxide and hydrogen (more carbon monoxide is consumed); this side reaction may not be desirable.

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;[11] this may be accomplished by adding enough water so that some liquid is always present. The temperature must of course 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 experiment 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 coals and the paper towels contained alkali salts which functioned as catalysts. The conversion of pure cellulose with carbon monoxide and water is poor (a conversion rate of 63 percent and an oil yield of 15 percent). The conversion rate rises nicely when sodium carbonate is 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 reactive, unsaturated organic intermediates apart so that they do not condense to a char. Water may be the best vehicle, since it dissolves the catalyst and some organic intermediates; it is the least expensive; and in any case, it must be present to some extent. Urban refuse, sewage 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 organic solvents permits operation at lower pressures.

NATURE OF CONVERSION REACTIONS

Cellulose $(C_6H_{10}O_5)_n$ is found in the cell walls of plants and trees. It consists of long chains of glucose units. Second to cellulose in importance is starch, a widely distributed polysaccharide that is stored in the seeds, roots, and fibers of plants as a food reserve; 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 hydroxyl 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 carbohydrates lose water and carbon dioxide just on being heated. Oxygen can also be lost by reaction with the added carbon monoxide to form carbon dioxide, by hydrogenation, by various disproportionation reactions, and by combinations of these reactions. The vast number of reactions should 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° to 400° C.[12] White pine wood chips and newsprint were used as a source of crude cellulose. Dextrose, filter paper, and cellulose were used as a source of pure carbohydrates. Bovine manure was obtained from a local dairy barn.

The feedstock, water, and catalyst were charged to the cold autoclave; carbon monoxide was added to the desired initial pressure; and the autoclave was then heated to the desired temperature. The reaction time reported in the table does not include the heating and cooling periods, only the time at reaction temperature. The heating and cooling periods in 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 350° C and above.

The reaction product was flushed from the autoclave with solvent, and the oil was exhaustively extracted in a Soxhlet. Benzene was used to extract the product, except for runs made at 250° C, where acetone was used. The oil or bitumen was recovered by stripping off the solvent and then drying at room temperature. In some runs (tables 1 and 4), the product was dried overnight in an oven 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 by subtracting the percent 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 would give an oil yield of about 57 percent if the average carbon content of the oil is assumed to be 78 percent. Since some carbon would be converted to gaseous products, mostly 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 diagram of the unit, and figure 2 shows the control section on the protective barricade enclosing the unit. The system was designed to operate at maximum conditions of 5,000 psig and 500° C, with feed rates of 100 to 500 g/hr of waste slurry and 10 standard cubic ft per hr (scfh) of carbon monoxide. The combined stream 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° to 400° C. At 350° to 400° C, cellulosic wastes are readily converted to an oil by combined action of carbon monoxide, water, and catalyst. Within this range, temperature has little effect on conversion and oil yield, probably because the tendency of the product to carbonize at higher temperatures balances out the small amount of additional conversion of organic matter to oil. Temperatures near 400° C may be preferred if synthetic polymers, such as polystyrene and polyolefins, are also present in cellulosic waste in more than trace amounts. These polymers, especially the polyolefins, do not depolymerize significantly below 400° C.

The reaction temperature does have a significant influence on the viscosity and oxygen content of the product. The product obtained from urban refuse 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 oil formed at 380° C is a free-flowing liquid with a viscosity of 650 cs (centistokes) at 50° C and 102 cs at 88° C.

The transition of the physical state of water at its critical temperature (375° C) may complicate interpretation of results from work in the 350° to 400° C range. A moderate decrease in temperature may sometimes result in more of the reaction mixture existing as a liquid phase, 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) in batch tests is that the pressure developed by the steam and gases is usually about 1,500 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 reaction proceeds well but the water-gas shift reaction begins to consume carbon monoxide, and a major advantage of low-temperature operation starts to disappear.

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 and water results more in oxygen removal than in hydrogen addition. The oxygen contents of the oil products and the residues are lower at higher temperatures, indicating that oxygen removal is more effective at higher temperature. The hydrogenation effect will not be apparent from the product analysis, because the starting cellulose contains many hydroxyl groups which contribute to the hydrogen content.

Interestingly, the extent of the water-gas shift reaction at 250° C was reduced to less than 10 percent, and most of the accompanying hydrogen was quite effectively taken up by the cellulose conversion processes.

TABLE 1.—EFFECT OF TEMPERATURE ON CELLULOSE CONVERSION

	Temperature, ° C.		
	250	300	350
Initial pressure of CO [1] ..... p.s.i.	610	620	595
Operating pressure ..... p.s.i.	2,000	2,850	4,140
Time at temperature ..... minutes	120	120	120
Input, g:			
Cellulose	40	40	40
Water	120	120	120
Sodium carbonate	2	2	2
Carbon monoxide	37.2	37.8	36.1
Output, g:			
Benzene-extractable	[2]11.7	8.1	6.4
Residue	5.2	5.0	4.6
Water [3]	120	120	120
Gas	41.2	45.7	45.9
Gas products, mole:			
Carbon dioxide	.17	.49	.85
Hydrogen	Trace	.29	.70
Recovery ..... percent	89.5	89.5	89.3
Cellulose conversion ..... do	87.0	87.5	88.5
Oil yield ..... do	30	21	16
Carbon monoxide consumed ..... mole	.13	.51	1.03
Shift reaction ..... percent	9.8	37.8	79.8

[1] Values are corrected to 25° C.
[2] Acetone used as solvent instead of benzene.
[3] The water contained some oxygenated organic materials derived from the cellulose.

TABLE 2.—ANALYSIS OF CELLULOSE AND PRODUCTS[1]

[In percent]

Element	Untreated cellulose	250° C.		300° C.		350° C.	
		Oil	Residue	Oil	Residue	Oil	Residue
Carbon	45.6	72.4	73.9	78.5	76.6	81.2	83.1
Hydrogen	6.9	7.0	5.3	8.0	5.9	8.4	5.3
Nitrogen	0.	.004	.3	.03	.2	.1	.2
Sulfur	.04	.2	.2	.04	.04	.003	.1
Oxygen (by difference)	47.5	20.4	20.3	13.4	17.3	10.3	11.3
H/C atomic ratio	1.81	1.16	.86	1.22	.92	1.24	.76

[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 pressure is thus due essentially to carbon monoxide. 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.

If the temperature is above 375° C, all 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 temperature, 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 autoclave, all water will be in the vapor phase, and the steam pressure at a given temperature will depend on the volume of the autoclave.

The effects 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. If insufficient carbon monoxide is present, some oil is made, but much of the cellulose chars and retains 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 temperature 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.

TABLE 3.—EFFECT OF CO PRESSURE ON CELLULOSE CONVERSION

[50 g. newsprint, 200 ml. water, 10 g. $NaHCO_3$, 1 hr. at 250° C.]

Initial CO (p.s.i.g.)	Operating pressure (p.s.i.g.)	Oil yield (percent)	Conversion (percent)
0	960	24	78
100	1,150	24	76
200	1,380	32	83
300	1,480	32	82
400	1,500	34	84
500	1,640	35	87
600	1,840	40	90

But a gradual decrease in oil yield and conversion is observed as the initial pressure is decreased below 600 psig. Below 200 psig initial pressure, the yields and conversions drop more sharply. At 100 psig or less, the product contains so much solid that it resembles a friable char coated with oil. At higher pressures, the product resembles a heavy tar or a soft solid.

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 4.—EFFECT OF WATER TO CELLULOSE RATIO ON CELLULOSE CONVERSION

	Experiment			
	1	2	3	4
Initial pressure of CO[1] (p.s.i.)	585	600	600	585
Operating pressure (p.s.i.)	2,340	2,810	3,360	3,560
Temperature (°C.)	350	350	350	350
Time at temperature	120	120	120	120
Input, g:				
Cellulose	20	20	20	20
Water	20	40	60	80
Sodium carbonate	1	1	1	1
Carbon monoxide	40.6	40.6	39.8	38.0
Output, g:				
Benzene-extractable	2.9	2.6	3.2	4.6
Residue	3.9	3.2	3.7	2.7
Water	18	39	52	75
Gas	49.8	47.0	50.8	47.6
Percent:				
Recovery	91.4	90.4	96.8	93.5
Cellulose conversion	80.5	84.0	81.5	86.5
Shift reaction	18.6	18.6	19.0	39.0
Oil yield	14.5	13.0	16.0	23.0

[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 2,390 psi at 350° C in the reactor is 53 grams. Considering the amount of water recovered and that some water would be expended in forming hydrogen and carbon dioxide, 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.

Examination of the data in table 4 reveals that variation of the water-to-cellulose ratio had little effect on the results as long as water was present only in the vapor phase. Under these conditions, the conversion of cellulose was 80 to 84 percent, and the products were heavy oil, water, and gases, in yields as shown. The offgas contained carbon monoxide, carbon dioxide, hydrogen, and very small amounts of low-molecular-weight hydrocarbon gases. The extent of the water-gas shift reaction is about 19 percent, when it is assumed to be equivalent to carbon monoxide consumption.

For the run with the high water-to-cellulose ratio (80:20) and with water present in both the liquid and vapor states, cellulose conversion and oil yield seemed to improve slightly. The extent of the water-gas shift reaction also increased to 39 percent, indicating that formation of carbon dioxide and hydrogen also increased.

Generally, formation of carbon dioxide was approximately equimolar to carbon monoxide consumption, but formation of hydrogen, as analyzed in the final gaseous products, was about 32 percent lower than that of the carbon dioxide, which suggests that some hydrogen was taken up in hydrogenating cellulose at 350° C.

In an experiment with a water-to-cellulose ratio of 40:160 under essentially the same conditions, the cellulose conversion was 90 percent and the water-gas shift reaction was as high as 78.1 percent. Here the operating pressure reached 3,900 psi because of increased formation of hydrogen and carbon monoxide. Under these conditions too much carbon monoxide is consumed.

A basic problem is to find reaction conditions that minimize the shift reaction but give high conversions of cellulose to oil. Figure 3 shows the progress of conversion of cellulose with time for a relatively low water-to-cellulose ratio. A feed ratio of water:cellulose:catalyst of 80:40:2 with an initial carbon monoxide pressure of 600 psi was used. The reaction temperature was 350° C, but about 80 minutes was needed to reach this temperature in the autoclave. Nearly 60 percent of the conversion occurred before the system reached 350° C, and the conversion approached a limit of about 78 percent after the reaction was in progress at 350° C for 45 minutes.

The extent of water-gas shift concurrent with the conversion reaction is also shown in figure 3. A steep rise in the extent of the water-gas shift reaction accompanied with increased formation of hydrogen and carbon dioxide was observed in the period between 15 to 45 minutes after the reactor reached 350° C. The inference is that the conversion reaction is faster than the shift reaction. Thus, the preferred operating technique would be to use short reaction residence times with a small sacrifice in cellulose conversion, while gaining a greater reduction in wasteful shift of carbon monoxide to carbon dioxide. Future continuous unit operations should not suffer from long reactant heat-up times, and consequently will permit a better definition of preferred conditions.

Effect of vehicle and solvent

Although equal weights of cellulose and water may be converted to oil in good yields, the presence of additional liquid(s) may improve the process considerably. The major liquid that probably will be used commercially is water. The effect of water on the conversion was discussed above; here, let us examine its other roles in converting organic wastes to oil, as well as the role of various additive liquids.

Water is involved in many ways in this

reaction. First, most substrates contain large amounts of moisture. Second, since most organic wastes are highly oxygenated, water is formed merely by heating them to reaction temperature; so it is a reaction product. Third, water, as formed in the substrate during the reaction, or simply added to the reaction mixture, is a mechanical vehicle for facilitating mixing of reactants and preventing condensations to chars by diluting the reaction intermediates.

Water is also a solvent of sorts. It is true that most substrates are not soluble in water under normal conditions, but solvation can occur between the hydroxyl groups of the substrate and water. It is an excellent medium for intermediate hydrolysis of cellulose and other high-molecular-weight carbohydrates to water-soluble sugars. The primary reactions in the conversion to oil likely involve formation of low-molecular-weight, water-soluble compounds such as glucose or pyruvic acid. In addition, alkaline catalysts are water soluble, thus facilitating their dispersion throughout the reaction vessel in readily available form.

Finally, but importantly, water is a reactant. The hydrogen added to the substrate comes from water, which consumes carbon monoxide by reacting with it to form carbon dioxide and hydrogen.

Nevertheless, there are reasons for trying to replace part of the water with other vehicles or solvents. An excess of water accentuates removal of carbon monoxide. Also the vapor pressure of water is high as operating conditions approach the critical temperature of 375° C. Steam pressures become excessive at higher temperatures, depending on the quantity of water present.

At temperatures above 350° C, only a few solvents meet the requirements of stability, low vapor pressure, solvent action, and low-to-moderate cost. One of these solvents is anthracene oil, a byproduct of coal-tar refining. Other excellent solvents are high-boiling heterocyclic bases such as isoquinoline and alkylpyridines. These latter compounds are not only excellent solvents of high stability, but also powerful catalysts for reactions leading to cellulose liquefaction. High conversions can be obtained by using smaller amounts of isoquinoline than of anthracene oil. Because of their cost, however, it will be necessary to recover the heterocyclic bases for recycling.

The effectiveness of anthracene oil and isoquinoline in liquefying white pine wood chips at 380° C is shown in table 5. When either anthracene oil or isoquinoline replaced part of the water, the operating pressure was considerably lowered.

TABLE 5.—EFFECT OF SOLVENT ON OPERATING PRESSURE AND CELLULOSE CONVERSION

[40 g. soft pine, 1,200 p.s.i.g. initial CO pressure, 380° C.]

Solvent (ml.)				Operating pressure (p.s.i.g.)	Conversion (percent)	Oil yield (percent)
Water (ml.)	Anthracene oil	Isoquinoline	Time (min.)			
40			15	5,850	73.0	22
20	40		15	4,300	95.0	51
20	40		120	4,300	96.5	53
20		5	15	4,200	98.0	57

Catalysts

Water-soluble alkaline compounds, such as sodium carbonate, are effective catalysts (table 6); conversion of over 90 percent and oil yields of 45 to 50 percent are attainable with these catalysts. Generally, hydroxides, carbonates, bicarbonates, and formates of the alkali metal and alkaline earth groups are effective catalysts. At process conditions, these materials probably exist as a mixture of carbonates, bicarbonates, and formates as they undergo conversion from one form to the other.

The data in table 6 show that the alkali carbonates are more effective catalysts than stannous chloride or ferrous sulfate, which are acidic catalysts often used to hydrogenate coal. The ammonium cation (NH_4^+) is similar chemically to the alkali metal cations, and it is no surprise that ammonium hydroxide also gave high conversions of cellulose; but the oil formed in the presence of NH_4OH had a high nitrogen content, and this is a disadvantage.

TABLE 6.—EFFECT OF VARIOUS CATALYSTS ON CELLULOSE CONVERSION

[20 g. filter paper, 40 ml. water, 1,500 p.s.i.g. initial CO pressure,* 350° C.]

Catalyst	Weight (gram)	Time (minutes)	Conversion (percent)
		120	63
$FeSO_4$	1.0	120	69
K_2CO_3	.2	120	80
Na_2CO_3	.2	15	78
Na_2CO_3	.2	120	81
Na_2CO_3	1.0	120	96
†NH_4OH	1.0	120	73
†NH_4OH	10.0	120	96
$SnCl_2$	1.0	120	77

*Operating pressure about 4,800 p.s.i.g.
†A 30-percent aqueous solution of NH_3.

The alkaline salts may serve several purposes:

1. In the presence of carbon monoxide, they are converted to formates which are reducing agents and transfer hydrogen to the oxygenated or unsaturated compounds, and then are regenerated in situ. In other words they serve as homogenous catalysts for converting solid wastes to oil.

2. Alkali carbonates are catalysts for the water-gas shift reaction.

3. Alkaline materials are catalysts for many known organic rearrangements and disproportionations that yield materials containing less oxygen than the original carbohydrates.

4. Alkaline salts may neutralize organic acids formed in the system. Without neutralization, these acids could promote charring.

Much more work is required before the mechanism of catalytic action by alkali salts is clear. But the postulation that formates are intermediates is consistent with these facts.

1. Formates have been identified in the aqueous solution obtained from cellulose treatment.

2. Formates are intermediates in water-gas shift reactions catalyzed by a number of salts.

3. Formates may be synthesized in good yield by treating alkali carbonates with carbon monoxide and water under conditions of the waste conversion reaction.

4. Cellulose can be converted to oil in the absence of carbon monoxide, by heating with large amounts of sodium formate and water.

The hydrogen atom in the alkali formate (HCOONa) is probably transferred to the substrate during the conversion to oil. The water-gas shift reaction in the presence of alkali carbonates probably proceeds via formation and decomposition of the alkali formates:

$$Na_2CO_3 + H_2O + 2CO \longrightarrow 2H{-}\overset{O}{\overset{\|}{C}}{-}ONa + CO$$

$$2H{-}\overset{O}{\overset{\|}{C}}{-}ONa \longrightarrow H_2 + CO + Na_2CO_3$$

$$\text{Net reaction: } H_2O + CO \rightleftarrows H_2 + CO_2$$

Catalysts for converting cellulose to oil are more effective at low temperatures (250° C) than at higher temperatures.[13] Aqueous solutions of 2 to 5 percent sodium carbonate or bicarbonate brought about good conversions of cellulose to bitumen at 250° C. Because of the large quantities of catalyst solution used in operating at this temperature, the solution would be recycled.

Table 7 shows the results of eight successive autoclave runs on newsprint with recycling of the aqueous phase containing the catalyst. The oil yield on the first run is usually low because part of the cellulose hydrolysis products remains in the aqueous solution. Thereafter, an equilibrium concentration of soluble carbohydrates and carbohydrate derivatives is reached so that, in effect, all the hydrolyzed cellulose appears converted to bitumen, water, and carbon dioxide. After a few cycles, there was a decrease in conversion. However, the conversion could be returned to the 90-percent level by increasing the reaction time. Reduction of the carbon monoxide pressure, however, caused a considerable drop in conversion.

TABLE 7.—EFFECT OF RECYCLE CATALYST SOLUTION ON CELLULOSE CONVERSION

[250° C., 50 g. newsprint, 10 g. $NaHCO_3$, 200 ml. of recycle solution]

Run	Initial CO pressure (p.s.i.g.)	Time (minutes)	Oil yield (percent)	Conversion (percent)
*1	800	15	40	91
†2	700	15	54	92
3	700	15	43	82
4	700	15	44	88
5	700	15	46	84
6	700	60	53	91
7	400	60	41	78
8	400	60	40	78

*200 ml. water added.
†50 g. newsprint added in this and each succeeding run.

Although originally alkaline, the pH of the recycle aqueous phase drops to about 5 during use, probably because small amounts of soluble organic acids form. The gradual decrease in conversion rate with reuse of catalyst solution suggests that acidic compounds are accumulating and that eventually regeneration of the solution may be necessary. Regeneration should be possible by heating the solution to the temperature at which the acidic compounds are destroyed.

The most effective catalysts, however, for converting cellulosic materials to oil at 350° C are high-boiling heterocyclic nitrogen bases, such as isoquinoline, discussed in the section on vehicles. These dual-role catalyst-vehicles or solvents are particularly effective in promoting the efficiency of hydrogen utilization at high temperatures (table 8). Hydrogen utilization correlates well with conversion of carbohydrates to oil, and is a measure of catalyst effectiveness. Hydrogen utilization is defined arbitrarily as the hydrogen added to the cellulose divided by the hydrogen released. The hydrogen released is obtained from equivalency to the carbon dioxide content of the final gas. This figure is only an estimate because some carbon dioxide is liberated by the cellulose and some carbon dioxide is dissolved in the water in the system.

Footnotes at end of article.

TABLE 8.—EFFICIENCY OF HYDROGEN UTILIZATION

[40 g. soft pine, 1,200 p.s.i.g. initial CO pressure, 380° C. for 15 min.]

Catalyst	Water (milliliter)	Conversion (percent)	Final gas composition (volume, percent)			Hydrogen utilization (percent)
			H_2	CO	CO_2	
None	40	73	18.0	47	33	45
Isoquinoline, 5 g	20	98	6.8	49	41	83

The soft pine used in the experiments of tables 5 and 8 contained some naturally occurring catalysts; addition of a few percent of sodium carbonate or potassium carbonate would increase conversion to about 90 percent, but would not increase hydrogen utilization. Isoquinoline usually effects carbohydrate conversions greater than 95 percent, and hydrogen utilization normally greater than 80 percent (table 8).

It is interesting to speculate on the reasons for the high effectiveness of nitrogen bases as catalysts. Like ammonia, they can form salts, such as isoquinoline 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 denote all their hydrogen to cellulose fragments.

There is another intriguing possibility. Nitrogen bases have low reduction potentials and are excellent hydrogen transfer agents. Perhaps hydrogen adds to isoquinoline and the resulting hydroaromatic compound then donates this added hydrogen to the cellulose. The effectiveness of anthracene oil as a solvent may be due to its content of many heterocyclic nitrogen compounds.

Effect of substrate

Water-soluble carbohydrates and carbohydrates that readily hydrolyze to water-soluble compounds (at mildly alkaline conditions) can be converted to a bitumen at 250° C.[14] Materials which have been converted to bitumen at 250°C. include glucose, lactose, sucrose, corn stalks, 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 reasons are two: expanded use of chemical fertilizers, estimated at more than 30 billion pounds in 1970; and the concentration of animal population (cattle, swine, and poultry) which produces annually some 2 billion tons of wastes.[15] Soils near concentrated animal populations receive heavy doses of manure, which through drainage contribute pollutants to surface waters. Transporting animal wastes long distances to where they could be used is not economical.

Bovine manure (a major animal waste) appears to be mostly cellulosic, yet the material is somewhat more resistant to conversion than cellulose itself; resistant lignins may be present. Bovine manure is not readily converted to oil at 250° C., but treatment with carbon monoxide and steam at 380° C. and high pressure results in high conversions of bovine manure to oil. Because of the calcium, sodium, and potassium content of the manure, the addition of catalysts is not necessary. Compositions of bovine manure and product oil are shown in table 9.

TABLE 9.—COMPOSITION OF BOVINE WASTES AND PRODUCT OIL

100 g manure, 40 g water, 1,200 psig initial CO pressure, 6,000 psig operating pressure, 20 min at 380° C]

Constituent	Composition of manure, percent		Composition of oil [1] percent
	As used	Dry, ash-free basis	
Carbon	20.5	52.2	78.6
Hydrogen	2.5	6.4	9.5
Nitrogen	1.3	3.3	4.2
Sulfur	.5	1.2	.37
Oxygen	14.5	36.9	7.3
Ash	15.1		
Water	45.5		

[1] Conversion 99 percent, oil yield 47 percent.

CONTINUOUS UNIT INVESTIGATIONS

To date, preliminary continuous experiments have been conducted with solutions of sucrose, a typical carbohydrate, to avoid initially the mechanical problems encountered in pumping solids or slurries at high pressure. The experimental approach will be extended to study conversion of starch and micronized cellulose (paper) to oil to provide background data on these typical materials found in waste. Concurrently a special slurry feed pump is being tested for high-pressure operations; when proven dependable, it will be added to the continuous unit to feed slurried refuse after the preliminary study of typical ingredients is completed.

Experiments in the continuous bench-scale unit have been made at 350° and 380° C, and significant oil yields were obtained. Operability and oil production have been demonstrated at total pressures (carbon monoxide and steam) of 4,000, 3,000, and 2,000 psig. Sucrose feed concentrations were 33 and 50 percent. Sodium carbonate, added as catalyst, ranged from about 1.5 to 5 percent of the solution.

Table 10 lists the conditions and results for a preliminary continuous run. The oil yield is fairly good, considering that 50 percent is the theoretical maximum for sucrose. Products from other runs are now being processed and analyzed. Reactor modifications to improve both carbon monoxide retention in the reactor and the gas-liquid contact area will be tested to accelerate the reaction of carbon monoxide with organic materials. This would improve oil yield per reactor volume, an important plant design consideration.

TABLE 10.—CONTINUOUS UNIT OPERATING CONDITIONS

Test conditions:		
Feed composition:		
H_2O	percent	64
Sucrose	do	31.5
Na_2CO_3	do	4.5
Feed density	g/ml	1.15
Temperature	°C	350
Pressure (H_2O+CO)	psig	4,000
Liquid feed rate	ml/hr	90
Gas feed rate	scf/hr	2.0
Residence time	hr	1.0
Duration	hr	7
Gross run results:		
Oil collected	g	75
Oil yield from sucrose	percent	33

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 layer, the oil is separated by centrifugation at room temperature. The oil produced at 350° C had an elemental composition of 75.2 percent C, 9.1 percent H, and 15.7 percent O (by difference); its heating value is 15,200 Btu per pound. The oil produced at 380° C contained 77.7 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 linkages and carbonyl and hydoxyl 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" hydrogen—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 ($-\overset{H}{C}=O$).

The results of a simulated distillation by gas-liquid chromatography are as follows:

Percent distilled—distillate weight/original weight

	Temperature ° C
0.5	[1] 42
5.0	85
10.0	133
20.0	188
30.0	236
40.0	281
50.0	327
60.0	384
70.0	488

[1] 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. 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 water on this process have 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 chemist.
[2] Supervisory chemical research engineer.
[3] Project coordinator.
[4] Knapp, E. C. Agricultural Poses Wastes Problems. Environ. Sci. and Technol., v. 4, December 1970, pp. 1098–1100.
[5] Vaughn, R. D. Solid Waste Management—Everybody's Problem. Environ. Sci. and Technol., v. 5, April 1971, p. 293.
[6] Work cited in footnote 5.
[7] Appell, H. R., I. Wender, and R. D. Miller. Conversion of Urban Refuse to Oil. BuMines Tech. Prog. Rept. 25, 1970, 5 pp.
[8] Appell, H. R., I. Wender, and R. D. Miller. Solubilization of Low Rank Coal With Carbon Monoxide and Water. Chem. and Ind. (London), Nov. 22, 1969, p. 1703.
[9] Work cited in footnote 7.
[10] Work cited in footnote 7.
[11] Work cited in footnote 7.
[12] Work cited in footnote 7.
[13] Work cited in footnote 7.
[14] Work cited in footnote 7.
[15] Work cited in footnote 4.

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 therein limited to 3 minutes, the period for routine morning business not to extend beyond 10:30 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 in the Treasury 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 the said William D. Pender against the United States for compensation for the loss of household goods and personal effects which he had to abandon in Fairbanks, Alaska, after he was incorrectly informed by the Department of the Army personnel that such goods and effects could not be stored or shipped at Government expense incident to his transfer from Fort Greely, Alaska, to Fort Belvoir, Virginia, and which could not otherwise be disposed of by said William D. Pender because of prohibitively high commercial storage rates and the shortage of time between the issuance of transfer orders and the reporting date at his new duty station: *Provided,* That no part of the amount appropriated in the Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

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," inserts "and Mildred C. Payne".

On page 2, line 4, strike out "$256.89," and insert "$267.97,".

On page 2, line 7, strike out "June 27, 1969" and insert "July 29, 1969".

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

PERSONAL STATEMENT

Mr. BYRD of Virginia, Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I 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 had the Senator from Virginia been 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 West 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 conferees are ready to meet when House conferees 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, ocean dumping, election reform, social security amendments, interest rates on insured mortgages, lump sum death payment.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, there will be no more votes tonight. The Senate will convene tomorrow at 9 o'clock. After recognition of the two leaders, and the expiration of the various 15-minute orders which have been entered, there will be a period for the transaction of routine morning business with the usual 3-minute limitation on speeches. At 10:30 a.m., there will be three separate but consecutive rollcall votes on the following:

Executive M, the agreement concerning international classification of goods and services;

Executive I, Locarno agreement establishing classification of industrial designs; and

Executive K, protocol relating to international civil aviation.

Following those three back-to-back rollcall votes, the first of which will occur at 10:30 a.m., there could be additional rollcall votes on conference reports, and so forth, though I know of none at the moment.

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.

The motion 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.

NOMINATIONS

Executive nominations received by the Senate December 10, 1971:

U.S. DISTRICT COURTS

Bruce M. Van Sickle, of North Dakota, to be U.S. district judge for the district of North Dakota, vice George S. Register, retiring.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

MEDICAL CORPS

To be colonel

Hanson, Chester A., xxx-xx-xxxx

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

Army Promotion List

To be lieutenant colonel

Anderson, William A., xxx-xx-xxxx

Army Promotion List

To be major

Bland, Andrew R., Jr., xxx-xx-xxxx
Brylla, Charles W., xxx-xx-xxxx
Burr, Jacky A., xxx-xx-xxxx
Crowle, James L., xxx-xx-xxxx
Dahl, Hans E., xxx-xx-xxxx
Davis, Marion L., xxx-xx-xxxx
Edes, Richard H., xxx-xx-xxxx
Gray, Thomas A., xxx-xx-xxxx
Knippa, Leroy E., xxx-xx-xxxx
McCarthy, Robert A., xxx-xx-xxxx
Neilson, Russell W., xxx-xx-xxxx
Paladino, Vito W., xxx-xx-xxxx
Sammt, Carl J., xxx-xx-xxxx
Vice, John R., xxx-xx-xxxx
Webster, Howard E., Jr., xxx-xx-xxxx

Army Promotion List

To be captain

Adams, Nolan J., xxx-xx-xxxx
Baker, Robert J., xxx-xx-xxxx
Beaton, Edward A., xxx-xx-xxxx
Behler, Gene R., xxx-xx-xxxx
Boegler, Kenneth G., xxx-xx-xxxx
Briggs, James B., xxx-xx-xxxx
Brown, Robert C., xxx-xx-xxxx

Campbell, Donald J., xxx-xx-xxxx
Carr, Byron H., xxx-xx-xxxx
Coats, Landis R., xxx-xx-xxxx
Cook, Billie R., xxx-xx-xxxx
Coonradt, Leo J., xxx-xx-xxxx
Crown, Francis J., Jr., xxx-xx-xxxx
Culbert, Harry J., xxx-xx-xxxx
Dimsdale, Roger, xxx-xx-xxxx
Gettig, Charles E., xxx-xx-xxxx
Greer, Harold E., Jr., xxx-xx-xxxx
Hamilton, Jack L., xxx-xx-xxxx
Hartfield, Robert S., xxx-xx-xxxx
Hartsell, Carroll F., xxx-xx-xxxx
Hergen, James G., xxx-xx-xxxx
Herring, Charles D., xxx-xx-xxxx
Herrington, James W., xxx-xx-xxxx
Kelsey, Arthur W., xxx-xx-xxxx
Kirchner, John E., xxx-xx-xxxx
Knight, David B., xxx-xx-xxxx
Loeffler, Frank E., xxx-xx-xxxx
Metzer, Robert M., xxx-xx-xxxx
Morgan, Emmett K., II, xxx-xx-xxxx
O'Brien, Dennis E., xxx-xx-xxxx
Pfiaster, Darrell J., xxx-xx-xxxx
Pozniak, Edward J., xxx-xx-xxxx
Richardson, Troy E., xxx-xx-xxxx
Rawlinson, Jerry D., xxx-xx-xxxx
Riddell, John M., xxx-xx-xxxx
Riley, Harry G., xxx-xx-xxxx
Rittenhouse, David, xxx-xx-xxxx
Robinson, Glen E., xxx-xx-xxxx
Roix, Robert J., xxx-xx-xxxx
Rosenberg, Raymond, xxx-xx-xxxx
Ross, Thomas P., xxx-xx-xxxx
Salter, Avery T., Jr., xxx-xx-xxxx
Shiver, Eustice M., xxx-xx-xxxx
Slover, Harold L., xxx-xx-xxxx
Smith, Wendell I., xxx-xx-xxxx
Smoot, Charles V., xxx-xx-xxxx
Stetson, Mark R., xxx-xx-xxxx
Thomas, Robert E., Jr., xxx-xx-xxxx
Wade, Thomas G., xxx-xx-xxxx
Webb, Thomas J., xxx-xx-xxxx

MEDICAL CORPS

To be captain

Howell, Frederick L., xxx-xx-xxxx
Limmer, Bobby L., xxx-xx-xxxx

VETERINARY CORPS

To be captain

Cirone, Salvatore M., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be captain

Platte, Ronald J., xxx-xx-xxxx
Porter, Steven J., xxx-xx-xxxx
Sullivan, John E., Jr., xxx-xx-xxxx

ARMY NURSE CORPS

To be captain

Kanusky, Joseph T., xxx-xx-xxxx
Miles, Ann L., xxx-xx-xxxx

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Acock, John H., Jr., xxx-xx-xxxx
Adams, Samuel B., xxx-xx-xxxx
Aldridge, Marion J., xxx-xx-xxxx
Allen, Clay W., III, xxx-xx-xxxx
Anders, Howard G., xxx-xx-xxxx
Arias, Louis A., xxx-xx-xxxx
Armour, Wayne T., xxx-xx-xxxx
Armstrong, Eugene G., xxx-xx-xxxx
Autz, Remy E., xxx-xx-xxxx
Baldenweck, Thomas, xxx-xx-xxxx
Ball, Larry E., xxx-xx-xxxx
Bancroft, Ronald K., xxx-xx-xxxx
Banzhoff, Ernest L., xxx-xx-xxxx
Barcellos, Terrance D., xxx-xx-xxxx
Barefield, Robert L., xxx-xx-xxxx
Barth, James M., xxx-xx-xxxx
Baskin, Jerry S., xxx-xx-xxxx
Baur, Richard, xxx-xx-xxxx
Becker, Lawrence J., xxx-xx-xxxx
Becker, Richard H., xxx-xx-xxxx
Bennett, Harry S., xxx-xx-xxxx
Berry, Phillip C., xxx-xx-xxxx
Biliter, Patrick E., xxx-xx-xxxx
Bischoff, John M., xxx-xx-xxxx
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Hicks, Gail S., xxx-xx-xxxx
Kugel, Elizabeth E., xxx-xx-xxxx
Stubbs, Peggy A., xxx-xx-xxxx

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To be first lieutenant

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Bost, William G., xxx-xx-xxxx
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Tuell, Henry O. III, xxx-xx-xxxx

Tupper, Joseph L., Jr. [redacted]
Walker, Robert A. [redacted]
Wehunt, William D. [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be first lieutenant

Bruns, Robert D. [redacted]
Sinnott, Richard R. [redacted]

ARMY NURSE CORPS

To be first lieutenant

Lawyer, Robert H. [redacted]
Ludlam, Thomas M. [redacted]
Todd, Tony W. [redacted]

ACTION

Charles W. Ervin, of California, to be an Associate Director of Action. (New position.)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Harold C. Crotty, of Michigan, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1972, vice Charles A. Perlik, Jr., resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 1971:

ACTION

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of Action.

IN THE MARINE CORPS

Lt. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps with rank of general for a period of 4 years from the 1st day of January 1972 in accordance with the provisions of title 10, United States Code, section 5201.

Maj. Gen. Louis Metzger, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

IN THE AIR FORCE

The nominations beginning Aaron H. Wilson, Jr., to be captain, and ending Blair C. Wrye, to be major, which nominations were received by the Senate and appeared in the Congressioinal Record on Nov. 12, 1971.

IN THE ARMY

The nominations beginning Kenneth W. Copeland, to be colonel, and ending Michael G. Rogers, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Nov. 12, 1971;

The nominations beginning Patricia Accountius, to be colonel, and ending Lawrence Zimmerman, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 1971; and

The nominations beginning James L. Anderson, 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. Auldridge, to be lieutenant colonel, and ending Ralph P. Zullo, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Nov. 12, 1971; and

The nominations beginning Russell R. Allen, Jr., to be chief warrant officer (W–4), and ending Arthur Yow, Jr., to be chief warrant officer (W–2), which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 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.

EXTENSIONS OF REMARKS

JACK EIGEN—AMERICA'S MOST IMITATED INTERVIEWER

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. PUCINSKI. Mr. Speaker, on Saturday, December 11, Jack Eigen concludes more than 24 continuous years in the broadcast industry.

We, in Chicago—and the people who are privileged to hear him in 38 States—know him as America's most imitated interviewer. He pioneered the late night talk show and his exceptional methods have set a very high standard for those broadcast journalists who have followed him in this highly difficult field.

Over the course of the last 24 years, interviewing approximately five guests a night for six nights a week, Jack Eigen has introduced more that 25,000 guests to his television audience. With a breadth of knowledge and a range of interests that have never been surpassed by his imitators, Jack Eigen has helped to shape some of the most informative news stories of our times.

His guests over the years have included people from show business, politics, sports, the arts—the entire spectrum of human endeavor that calls on the best, most unique talents of human beings. Jack's skill as an interviewer has consistently drawn the best from these often complicated men and women, making them and their work fascinating to the listening audience.

His career originated in New York out of the famed Copacabana shortly after World War II. Later he moved to Chicago and has become over the years an institution to all those millions of people who respected and enjoyed the zest and intelligence he brought to his job.

Jack Eigen has lived through and helped to shape some of the major historical facets of our modern American era. It may be a cliche to say that an era is coming to an end when he leaves his position on Saturday night, but there is no question that broadcast journalism and the late night interview show are stamped forever with the force of his personality, the depth of his character, and the scope of his great integrity. Chicago and a major portion of the Nation will sadly bid his talk show farewell this month. For us, as for his colleagues within the radio and television industry, he is both a legend and a model.

But, Mr. Speaker, I have a feeling Jack Eigen will be back. Once before the NBC format was changed in Chicago and Jack was off the air for a spell. But the demand for his fine brand of broadcasting was so great he was recalled.

I can appreciate the management's desire to try something different. This is in keeping with the best tradition at NBC—always striving to bring its listeners a format acceptable to the largest needs of the community but I am certain no format will replace Jack Eigen.

It has been my privilege to appear in Mr. Eigen's program many times and I never cease to be amazed at what a fantastically large audience he has.

As I traveled through Midwest America, people from all walks of life would come up when they heard my name and tell me they heard me on the Jack Eigen Show.

Jack has provided an enormous public service to the thousands of people in the Midwest and WMAQ is to be commended for bringing this type of programing to Midwest America.

Mr. Speaker, Jack Eigen and his lovely wife have become a tradition in Chicago. We shall all miss his kind and inspiring broadcast. But we shall rejoice at the thought that he and his wife are enjoying themselves in Florida and we wish them many, many more years of happiness.

Chicago shall miss Jack Eigen. The old city just will not be the same. We can only hope his vacation will be short and he will be back at WMAQ as quickly as possible.

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 appropriations that match the congressional authorizations he has acclaimed and approved. At this point, I insert in the RECORD the Post-Dispatch editorial that calls for this kind of Presidential support:

WHAT ABOUT THE MONEY?

A significant step toward increasing the number of physicians, dentists, nurses and