

the State of Nevada, relative to the establishment of a national cemetery in southern Nevada; to the Committee on Veterans' Affairs.

52. Also, a memorial of the Legislature of the Commonwealth of Massachusetts, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ADDABBO:

H.R. 5724. A bill for the relief of Giacomo and Salvatrice DiGrigoli and minor son, Angelo; to the Committee on the Judiciary.

By Mr. BROTZMAN:

H.R. 5725. A bill for the relief of Robert E. Middleton; to the Committee on the Judiciary.

By Mr. HARVEY:

H.R. 5726. A bill for the relief of Josefa Peconillo-Nepomueeno; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 5727. A bill for the relief of Kelvin Roberto Forbes to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 5728. A bill for the relief of Meir Dayan; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 5729. A bill for the relief of Salvador A. Casalang; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H.R. 5730. A bill for the relief of Santo Midulla; to the Committee on the Judiciary.

By Mr. WOLFF:

H.R. 5731. A bill for the relief of Elena Afio; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

38. By the SPEAKER: Petition of the Senate of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, relative to the self-government of the Trust Territory; to the Committee on Interior and Insular Affairs.

39. Also, petition of the Portland, Maine, Superintending School Committee, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—Monday, March 8, 1971

(Legislative day of Wednesday, February 17, 1971)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

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

O Thou God of life and light, shed Thy pure light upon this place, and illumine our minds that this may be a vital week of service to the Nation. Take from us all that obscures Thy presence or dims the light of Thy truth from the judgments which must be made. Grant that clear illumination which separates truth from falsehood, justice from injustice, love from hate. Help us to have the hospitality of mind and magnanimity of spirit, which leads beyond contention and division that we may learn from one another and be drawn into a firmer alliance and truer brotherhood.

Let Thy blessing be upon all who lead this Nation that out of troubled times may come a brighter, fairer world in which Thou dost rule in the hearts of men and in the capitol of the nations.

In the Redeemer's name we pray. Amen.

MESSAGES 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 President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of

the proceedings of Friday, March 5, 1971, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. SCOTT. I would like to inquire as to the course of business during the present week.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, if we dispose of the pending motion tomorrow, it is the intention of the majority leader—the minority leader concurring—to ask unanimous consent that the Senate turn to the consideration of the joint resolution reported by the Judiciary Committee which has to do with extending the vote, through constitutional amendment, to those 18 years of age and over who are excluded on the basis of the Supreme Court finding which allows 18-year-olds to vote in national elections only. This constitutional amendment would cover State and local elections as well.

Mr. SCOTT. If the distinguished majority leader will further yield, I have no objection to the joint resolution coming up at that time. I would simply ask that time be given us to advise the ranking minority member of the committee, the Senator from Nebraska (Mr. HRUSKA), to make sure he knows of no objection. With that reservation, I would agree that we ought to dispose of whatever we have before us in the way of legislation.

Mr. MANSFIELD. That is a most reasonable request. It is my understanding—and I see the distinguished chairman of the subcommittee, the Senator from Indiana (Mr. BAYH), and the distinguished Senator from Kentucky (Mr. COOK), the Senator from West Virginia (Mr. BYRD), all members of the Judiciary Committee, present—that it was reported by the Judiciary Committee unanimously. The Senator from Pennsylvania also is a member of the committee.

Mr. SCOTT. Yes.

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

Mr. MANSFIELD. I yield.

Mr. BAYH. The Senator from Montana is exactly correct. It was reported unanimously. The Senator from Nebraska supported the measure in the subcommittee and the full committee. It was supported by the Senator from Kentucky (Mr. COOK) and the Senator from West Virginia (Mr. BYRD). We have had more unanimity on this critical measure than on any that has come before the committee.

Mr. MANSFIELD. I thank the Senator.

Mr. SCOTT. Mr. President, if the majority leader will yield, does he have any thought as to how long the debate might require?

Mr. MANSFIELD. No. I should not think too long in view of the unanimity in the Judiciary Committee, the need for something to be done, and the fact that if something is not done it will place a costly burden on the States because of the necessity of the preparation of separate ballots.

Then it is anticipated, following the disposal of that resolution, that the Senate will turn to the consideration of the bill dealing with Appalachia—again with the approval of the distinguished minority leader.

Mr. SCOTT. I know of no objection to that bill.

I know that this colloquy will now be in the Record, and the members of the relevant committees will indeed be advised.

Mr. MANSFIELD. I thank the Senator.

REWARD OF \$100,000 FOR INFORMATION RELATING TO BOMBING OF THE U.S. CAPITOL

Mr. SCOTT. Mr. President, just a few minutes ago the joint leadership of the House of Representatives and the Senate announced the posting, by private sources, of a reward of \$100,000. The distinguished majority leader and I made such an announcement this morning to the press. It is for information leading to the arrest and conviction of the person or persons responsible for the bombing of the U.S. Capitol on March 1, 1971.

Any person or persons providing such information will be fully protected. Sources of information will be regarded as completely confidential.

Any person having information should make such information available to any law-enforcement agency or official, including local offices of the Federal Bureau of Investigation.

This reward is being announced by the congressional leadership, who in turn have been advised that the money has been made available by private sources, and has been placed in escrow—I might add, in a bank—for payment to any person or persons providing information leading to the arrest and conviction of those responsible for the Capitol bombing.

Announcement of this reward has been authorized by the Speaker of the House, the majority and minority leaders of the House, the President pro tempore of the Senate, and the majority and minority leaders of the Senate.

I ask unanimous consent to include the announcement of the reward at this point in the RECORD.

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

REWARD: \$100,000

For information leading to the arrest and conviction of the person or persons responsible for the bombing of the United States Capitol, on March 1, 1971.

Any person or persons providing information will be fully protected. Sources of information will be regarded as completely confidential.

Any person having information should make such information available to any law enforcement agency or official, including local offices of the Federal Bureau of Investigation.

This reward is being announced by the Congressional leadership, Senate and House of Representatives, Democratic and Republican, who have been advised that the money has been made available by private sources, and has been placed in escrow, for payment to any person or persons providing information leading to the arrest and conviction of those responsible for the Capitol bombing.

Announcement of this reward has been authorized by:

Representative Carl Albert, Speaker, U.S. House of Representatives.

Representative Hale Boggs, Majority Leader, U.S. House of Representatives.

Representative Gerald R. Ford, Minority Leader, U.S. House of Representatives.

Senator Allen Ellender, President Pro Tempore, U.S. Senate.

Senator Mike Mansfield, Majority Leader, U.S. Senate.

Senator Hugh Scott, Minority Leader, U.S. Senate.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order entered, the Senator from Indiana (Mr. BAYH) is recognized for 15 minutes.

(Mr. BAYH'S remarks when he introduced S. 1127, providing for a comprehensive revision of the Uniform Code of Military Justice, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for 15 minutes.

(The remarks of Mr. PROXMIRE when he introduced S. 1129, the Foreign Military Assistance Reform Act of 1971, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

EXPORT-IMPORT BANK SHOULD NOT HAVE PRIORITY OVER HOUSING, SMALL BUSINESS, FARMERS

Mr. PROXMIRE. Mr. President, legislation is pending to remove the Export-Import Bank from the discipline of the Federal budget.

This legislation is opposed by the Federal Reserve Board and the General Accounting Office. Nevertheless, it has the strong support of the Senate Banking, Housing, and Urban Affairs Committee and unless we are alert to it, it may very well pass the Senate. It would blast the first big hole in the consolidated budget which was designed to end the back-door hidden subsidy of programs that happened to have special interest pressure.

It would also toss out \$290 million of spending which would otherwise have to appear in the Federal budget.

It is bookkeeping gimmickry and I oppose it.

It would give the Export-Import Bank precedence over housing programs, farm loan programs, and small business loan programs. While I approve of the Export-Import Bank, I think that we should provide some control over subsidies. We should know exactly what we are doing. We should not take away from the Appropriations Committee or take this away from congressional responsibility year by year.

I ask unanimous consent that a statement I made to the Banking Committee this morning on this legislation be printed in the RECORD.

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

STATEMENT BY SENATOR WILLIAM PROXMIRE BEFORE THE SUBCOMMITTEE ON INTERNATIONAL FINANCE, COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS, ON S. 19 AND S. 581 TO AMEND THE EXPORT-IMPORT BANK ACT, MONDAY, MARCH 8, 1971

Mr. Chairman, I welcome the opportunity to testify at these hearings on legislation to amend the Export-Import Bank Act. The activities and programs of the Export-Import

Bank play an important role in our national and international economy. Nevertheless, I am deeply concerned over the provisions of S. 19 and S. 581 which would remove the Bank from the discipline of the Federal Budget. I have not had a chance to review the other items in the legislation and my testimony today will be confined solely to the budgetary provisions.

Under current budget procedures established by the President's Commission on Budget Concepts, all Federal lending programs are carried in the Federal budget and are subject to Congressional ceilings on outlays to the extent that loan disbursements exceed loan repayments. The legislation before the Committee would undermine this well established principle by granting a special exemption for the loan activities of the Export-Import Bank.

The net effect of the legislation will be to remove \$290 million in total outlays from the Federal budget in Fiscal Year 1972, thus reducing the size of the Federal deficit by the same amount. It was this very type of book-keeping gimmickry by the previous Administration which led to the reforms proposed by the President's Commission on Budget Concepts. I find it disappointing that the present Administration has not taken a strong stand against this latest attempt at backdoor spending.

I understand the provisions removing the Ex-Im Bank from the budget are opposed by the Federal Reserve Board and the General Accounting Office. It is also significant that the President's budget for Fiscal Year 1972 does not provide for the removal of the Ex-Im Bank from the budget.

Removing the Ex-Im Bank from the Federal budget is unwise and unsound in a number of respects.

First, it removes Export-Import Bank operations from the discipline of the budgetary process. Under the Federal budget process, all programs must compete with one another for a limited supply of funds. In this manner, priorities are established and less essential programs are reduced or eliminated. By removing a program from this discipline, however meritorious the program might be, we are in effect saying the program has a higher priority than any other program in Government and should not be subject to budgetary constraints or ceilings. Thus, the Federal budgetary process is distorted, resources are misallocated, and congressional control over expenditures is weakened.

Second, the legislation is discriminatory since it singles out only one Federal lending program for favored treatment. There are a number of highly desirable Federal loan programs which are carried in the Federal budget and which are subject to congressional expenditure ceilings. These programs involve loans for low- and moderate-income housing, loans to small business firms, loans to farmers and rural electrification associations and for many other purposes. There is no evidence that the activities of the Export-Import Bank are of a higher order of priority over all other Federal lending programs. Why should a subsidized government loan to a multimillion dollar export firm receive priority over a housing loan to a low-income slum dweller?

Third, the legislation sets a dangerous precedent for excluding other Federal lending programs from the budget. Indeed, if a case can be made to exclude the Ex-Im Bank, I believe a far stronger case can be made to exclude other lending programs such as housing or small business. The President's budget for Fiscal Year 1972 shows that all Federal lending programs will disburse \$13.5 billion in loans and collect \$10.8 billion in payments for a net outlay of \$2.7 billion. All of these funds would be excluded from the budget if we treated all lending programs the way we are proposing to treat the Ex-Im Bank.

Fourth, the legislation is unnecessary since the President already has adequate administrative authority to exclude the operations of the Export-Import Bank from the Federal budget. This point was made very clear in testimony presented to the committee last year by Elmer B. Staats, Comptroller General of the United States. Mr. Staats said:

"In our opinion, whether the net lending of the Bank is included in the portion of the President's budget used in determining the deficit or surplus was within his discretion and legislation for this purpose was not required."

The effect of the legislation, therefore, is to make the Congress a willing partner in the budgetary manipulations of the Administration, thereby insulating the Administration from any criticism.

Fifth, the legislation infringes upon the jurisdiction of the Appropriations and Finance Committees insofar as expenditure or outlay ceilings are involved. These Committees have, from time to time, established government-wide expenditure ceilings. Both bills seek to bypass these two Committees and bind future Congresses when they state that the receipts and disbursements of the Bank "shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government." This means that the Bank would not be restrained by any Congressional ceiling on expenditures unless the legislation establishing the ceiling specifically rescinded the budgetary provisions now before the Committee.

If a case can be made for excluding Ex-Im Bank operations from a Congressionally imposed expenditure ceiling, proper procedure would call for the Bank to justify a specific exemption each time the ceiling is set. The burden of proof to secure an exemption should be on the Bank; we should not place the burden on Congress to revoke a pre-existing exemption.

About the only reason which has been advanced for this legislation is that it would permit a greater level of Export-Import Bank lending which in turn is supposed to enhance the U.S. balance of payments. This argument is of dubious merit. The Federal Reserve Board has a far greater concern with our balance of payments than the Export-Import Bank and considerably more economic expertise. In a letter to the Committee, Chairman Burns of the Federal Reserve Board cast considerable doubt upon the argument that the legislation would improve our balance of payments. The Federal Reserve Board Chairman states that:

"The Board is fully aware of the desirability of expanding U.S. exports to help improve our balance of payments. However, not all Export-Import Bank loans result in additional export sales. This is especially true when the Bank finances the sale of U.S. goods for which there is little or no competition in world markets. Frequently the Bank's loans are substituted for other financing in the United States or from abroad. Finally, to the extent that the Bank's credit is used to substitute for offshore financing of our exports, our balance of payments will suffer.

"Accordingly, the Board recommends against enactment of the bill."

I hope that the members of this Subcommittee will give great weight to the views of Mr. Burns. He is far more qualified to judge the impact on our balance of payments than are the officials of the Ex-Im Bank.

It has also been argued that Export-Import Bank loans are not true expenditures since they are fully repayable with interest. Accordingly, it is argued that no great harm is done if the net lending figures are removed from the budget.

This argument is also misleading. Ex-Im Bank loans do represent a claim on private resources to achieve public objectives. More-

over, the net outlays of the Bank must be financed in the capital markets the same as any other Federal spending program. One of the basic purposes of the budget is to show the total financial claims of the public sector on the private sector. Excluding Ex-Im Bank loans therefore understates the degree or extent of Federal claims upon the economy.

An argument has also been made that the Bank does not operate on appropriated funds hence its activities need not be carried in the budget. Once again, this argument is seriously misleading. Even though the Bank does not use Federal funds, hidden Federal subsidies to the Bank cost the American taxpayer nearly \$40 million a year. The legislation before this Committee would exempt these funds from budgetary control.

One way of appreciating the subsidized nature of Ex-Im Bank loans is to examine their operations for Fiscal Year 1970. During the year, the Bank was making export loans at 6% when the market rates were 8 or 9%. Moreover, the Bank still earned a profit of \$110.7 million. How can the Bank earn money by making below-market rate loans? The answer is that it does so through hidden Federal subsidies.

There are two backdoor subsidies to the Bank. The first is the investment of government capital at a ridiculously low rate. The Bank has over \$2.2 billion in government capital, including \$1 billion in initial capital stock and \$1.2 billion in retained earnings. The entire \$2.2 billion belongs to the American taxpayer. If we closed down the Bank, the \$2.2 billion would be returned to the Treasury and the funds could be used to reduce the national debt. Interest paid on the national debt would be similarly reduced. Thus, the real cost to the taxpayer is the interest he is paying on his total investment of \$2.2 billion. Assuming an average interest rate of 6% on government obligations during Fiscal Year 1970, the interest cost of financing the Ex-Im Bank is \$132 million.

What did the taxpayers get back for the \$132 million? They received only \$50 million in dividends or less than 2.5% on their total investment. The Bank also kept \$60 million in retained earnings for a total profit of \$110 million. The difference of \$22 million represents a hidden subsidy paid by the taxpayer.

The second backdoor subsidy comes from the ability of the Bank to borrow directly from the Treasury at rates below the cost of funds to the Treasury. The General Accounting Office estimates this backdoor subsidy cost the taxpayers \$16.8 million in Fiscal Year 1970.

When we add the two backdoor subsidies together—\$22 million in low cost capital and \$16.8 million in cut rate loans, we get a total subsidy of \$38.8 million.

Mr. Chairman, I would prefer to keep the Ex-Im Bank in the Federal budget. Nonetheless, I recognize that the majority of the Committee probably favors the exclusion of the Bank from the budget. For that reason, I have proposed a compromise which I hope a majority of the Committee can support. Briefly stated, my compromise amendment would permit the exclusion of loan disbursements and repayments from the budget as is provided in the two bills before the Subcommittee. However, my amendment would also convert the backdoor subsidies to front-door subsidies and require that the subsidized portion of the Ex-Im Bank be carried as a line item in the budget.

In other words, my amendment would permit the exclusion of \$290 million in net outlays anticipated in Fiscal Year 1972. However, if the Bank needed a \$40 million subsidy to sustain those outlays, it would have to request those funds from Congress through the budget. I believe this to be an entirely reasonable approach. It permits the exclusion of the vast bulk of Ex-Im Bank outlays and requires that only the subsidized portion

of the Bank's operations be included in the Budget.

This objective would be accomplished in the following manner. First, the Bank would be required to pay dividends to the Treasury on its total government capital at the current Treasury cost of borrowing. This eliminates the first backdoor subsidy I referred to earlier.

Second, the authority of the Treasury to make below market rate loans to the Ex-Im Bank would be removed. The rate on all loans would have to be at least equal to the current Federal cost of borrowing. This eliminates the second backdoor subsidy.

Third, my amendment authorizes the appropriation of such sums as may be necessary to subsidize the operations of the Ex-Im Bank. If the Bank desired to make low rate loans to exporters in order to meet foreign competition and stimulate U.S. exports, it could continue to do so provided it came to Congress for the funds needed to subsidize the interest rate.

These are the exact procedures we follow on our housing programs for low and moderate income families. I can see no reason why the Ex-Im Bank should be treated any differently.

My amendment would actually give the Congress a greater degree of control over the operations of the Ex-Im Bank. Under current procedures, the Congress can limit the gross lending authority of the Bank; however, it has no say as to the degree or depth of the subsidy given the Bank. Because the subsidies are injected through the backdoor, the Congress has been effectively bypassed. The degree of taxpayer subsidy is really decided by Ex-Im Bank and Treasury officials free from any control by the Appropriations Committees.

My amendment would also provide for a more flexible approach to supervising the Bank. It permits Congress to alter the degree of subsidy as well as the total volume of Ex-Im Bank loans. Increasing the subsidy may be preferable to increasing the volume of Ex-Im Bank loans, particularly when an increase in the volume of loans would merely displace private loans already being made.

Mr. Chairman, I hope that your Subcommittee will give serious consideration to my amendment. As you know, I have recently become the Chairman of the Foreign Operations Appropriations Subcommittee which sets the yearly lending ceiling for the Bank. Naturally, I have a keen interest in the operations of the Bank including the extent to which it is subsidized by the taxpayer. I have no pre-conceived notions that the Federal subsidy is too low or too high. Perhaps a good case can be made for increasing the subsidy in order to stimulate exports. I do feel strongly, however, that the amount of the subsidy ought to be reviewed each year by the Congress and my amendment is designed to achieve this objective.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, there will now be a period for the transaction of routine morning business for 45 minutes, with a time limitation therein of 3 minutes.

Is there any morning business?

Mr. BYRD of West Virginia. Mr. President, I believe the order calls for a period not to exceed 45 minutes; is that not correct?

The PRESIDENT pro tempore. That is correct.

Mr. BYRD of West Virginia. I thank the Chair.

QUORUM CALL

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

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

PROTECTION OF THE CAPITOL

Mr. BYRD of West Virginia. Mr. President, a complicated problem has been created by the bombing which damaged a portion of the U.S. Capitol. What permanent steps should be taken to prevent another such senseless and stupid act?

As yet, there are no wholly satisfactory answers. The physical nature of the buildings on Capitol Hill, and their symbolic importance in our open society, make the imposition of strict security measures difficult.

The Capitol with its historic treasures belongs to the people of our country. Americans have the right to visit it. Indeed, they should be encouraged to do so. Our citizens have the right to visit their lawmakers in the office buildings of the Senate and House of Representatives. They have a right to visit and enjoy the Library of Congress.

How, then, should these buildings—which historically have always been open to the public and should remain so—be protected against those who would desecrate and destroy them?

Many methods are being discussed. Closed circuit television monitors such as are used in stores to trap shoplifters have been proposed. Sensor devices to detect metal objects and explosives have been suggested. Requiring visitors to leave packages and bags at building entrances has been advocated.

There are practical drawbacks to most of the proposals that have been put forward. Hundreds of staff people work in the Capitol and its supporting buildings, and uncounted thousands of persons visit these buildings daily, on business or for pleasure. Checking each one of them in and out is an almost impossible task.

Since the bombings, employees have had to show their identification cards, and open their bags and brief cases for police inspection. Entering or leaving the buildings before or after normal working hours, they must sign in or out.

But what about the thousands and thousands of tourists, whose identification—if they have any—would mean next to nothing to any police officer or guard? The visitors—who have a right to be there—pose the biggest problem. Those who perpetrated the bombing almost certainly entered the Capitol in the guise of normal visitors.

It seems to me that at least three things are going to have to be done. Some system of sophisticated electronic surveillance should be considered; certain areas of the Capitol such as working spaces that have little or no interest for

tourists should be placed off limits for casual visitors; and the Capitol Police Force should be increased and fully professionalized.

The Capitol Police Force now consists of an authorized strength of 622 men, 39 percent of whom are authorized to be patronage appointments. I am informed that, in actuality, 20 percent of the total force are students. The remainder of the patronage appointments are career-type officers who do not enjoy tenure.

I have made patronage appointments to the force, and I believe I have named good men. But in the future, only fully qualified, professional police officers should make up the force. The patronage appointments should be phased out through attrition and eventually eliminated. Officers who have patronage appointments should be given the opportunity, however, to qualify for the all-professional force.

At the same time the size of the force must be increased. Since the bombings, all days off for the police have been cancelled, and they have had to work longer hours each day. They have done a good job and are to be commended. But when the lives of hundreds of people are endangered, when the security of Federal Government buildings involving millions of dollars worth of property—much of it irreplaceable and its value not measurable in dollars—are at stake then nothing less than realism must guide us.

QUORUM CALL

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

Mr. STENNIS. Mr. President, will the Senator withhold that request?

Mr. BYRD of West Virginia. Mr. President, I withdraw the request?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

DISCHARGE OF COMMITTEE—
REFERRAL OF A BILL

Mr. STENNIS. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 73, a bill to authorize the Secretary of the Army to convey certain land in the State of North Dakota, the Mountrail County Park Commission at Mountrail, N. Dak., for recreational development and that it be referred to the Committee on Public Works.

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

Mr. STENNIS. Mr. President, by way of explanation, this bill covers conveyance of land acquired by the Army for the construction and maintenance by the Corps of Engineers of the Garrison Dam and Reservoir project in North Dakota.

It will properly come under the jurisdiction of the Committee on Public Works. Therefore, I have secured unanimous consent that it be referred there.

Mr. President, I ask unanimous consent that a printer's error on page 3, line 3, be corrected. The word "Navy" should be changed to "Army."

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF AGREEMENTS PROVIDING FOR FOREIGN CURRENCIES

A letter from the General Sales Manager of the Export Marketing Service of the United States Department of Agriculture, transmitting, pursuant to law, a report of agreements signed providing for foreign currencies for January and February, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION EXTENDING AUTHORITY UNDER THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

A letter from the Assistant Secretary of Agriculture, transmitting a draft of proposed legislation to extend the authority for insuring loans under the Consolidated Farmers Home Administration Act of 1961 (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT ON FINAL CONCLUSION OF JUDICIAL PROCEEDINGS REGARDING CLAIM OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report on the final conclusion of judicial proceedings regarding the claim of the Washoe Tribe, Plaintiff v. The United States of America, Docket No. 288 (with accompanying papers); to the Committee on Appropriations.

PROPOSED LEGISLATION REQUIRING THE REPORTING OF WEATHER MODIFICATION ACTIVITIES

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the reporting of weather modification activities to the Federal Government (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION RELATING TO AUTHORIZATION OF APPROPRIATION TO CARRY OUT THE METRIC SYSTEM STUDY

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an appropriation for fiscal year 1972 to carry out the metric system study (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION EXTENDING AND AMENDING THE RENEGOTIATION ACT OF 1951

A letter from the Chairman, the Renegotiation Board, transmitting a proposed draft of legislation to extend and amend the Renegotiation Act of 1951 (with an accompanying paper); to the Committee on Finance.

PROPOSED LEGISLATION TRANSFERRING CERTAIN LAND WITHIN THE WHITE EARTH RESERVATION TO THE MINNESOTA CHIPPEWA TRIBE

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

FOUR CORNERS REGIONAL COMMISSION'S 1970 ANNUAL REPORT

A letter from the Office of the Federal Chairman of the Four Corners Regional Commission, Department of Commerce, transmitting the Commission's 1970 Annual Report (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the Legislature of the State of Indiana; to the Committee on Commerce:

"Senate resolution memorializing the Congress of the United States to so amend the Federal Uniform Time Act as to permit the twelve Indiana counties within the Central Time Zone to observe daylight time between 2 a.m. of the last Sunday in April and 2 a.m. of the last Sunday in October in each calendar year

"Whereas, the six northwest counties of the State of Indiana within the Central Time Zone maintain close economic, social and cultural ties with the Chicago metropolitan area and are therefore adversely affected by provisions of the Uniform Time Act.

"Whereas, residents of the six counties in the southwestern portion of the state are equally as adversely affected during the summer months by close proximity to both Illinois and Kentucky where Central Daylight Time is observed in both states in addition to the time differential with eighty other Indiana counties; and

"Whereas, the situation created by provisions of the Federal Uniform Time Act leaves these portions of the state operating for six months of the year on a different time from neighboring states with resulting adverse affect on commuters, broadcast communications and transportation schedules; and

"Whereas, the 96th General Assembly anticipated this problem in 1969 by enacting a Concurrent Resolution (HCR 76) dealing with the Indiana time dilemma Acts 1969 (chapter 469) which urged the United States Congress to amend the Federal Uniform Time Act to permit the northwestern and southwestern areas to remain on central daylight time in the summer months; and

"Whereas, the 97th General Assembly takes note that efforts to amend the Federal Uniform Time Law are even now being made by several members of Congress representing Indiana.

"Be it resolved by the Senate of the General Assembly of the State of Indiana:

"SECTION 1. That the United States Congress do now amend the Federal Uniform Time Act to permit Indiana counties within the Central Time Zone to observe daylight time between 2 A.M. of the last Sunday in April and 2 A.M. of the last Sunday in October in each calendar year.

"Sec. 2. That because the advent of the change to Daylight Time in states bordering Indiana on the last Sunday in April 1971 will impose great hardship and inconvenience to the twelve Indiana counties in the Central Time Zone, prompt remedial action is urgently needed.

"Sec. 3. That the Secretary of the Senate shall prepare copies of this resolution and transmit the same to the President of the United States Senate and the Speaker of the United States House of Representatives and to members of the United States Senate and United States House of Representatives who represent the State of Indiana."

A concurrent resolution of the Legislature of the State of South Dakota; to the Committee on Commerce:

"HOUSE CONCURRENT RESOLUTION 505

"A concurrent resolution memorializing the Secretary of Transportation to reconsider the feasibility of using the main line of the Chicago, Milwaukee, St. Paul & Pacific Railroad for the primary northern railroad passenger transportation route in order to provide passenger service to the people of South Dakota

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, the Congress of the United States has enacted and the President has signed the Rail Passenger Service Act of 1970 establishing the National Rail Passenger Corporation, which Act declares that the federal Congress has found that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; and that federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and

"Whereas, the Secretary of Transportation is authorized by the said Act to determine the route to be used to provide rail passenger service between Chicago, Illinois and Seattle, Washington; and

"Whereas, the Chicago, Milwaukee, St. Paul and Pacific Railroad's main line between Chicago and Seattle is the shortest of the possible routes between the two cities; and

"Whereas, the main line of the Chicago, Milwaukee, St. Paul and Pacific Railroad is the most scenic of the possible routes connecting the two cities, in that it passes through the prairies of South Dakota, the Badlands of North Dakota, the Rocky Mountains in Montana, the Bitterroot Mountains in Montana and Idaho, and the Cascade Mountains in Washington; and

"Whereas, the main line of the Chicago, Milwaukee, St. Paul and Pacific Railroad is situated approximately equidistant from most of the population centers of North and South Dakota and would therefore be equally accessible to most of the people of the two states, while a more northerly route would deprive the majority of the people of South Dakota of practical access to rail passenger service, and a more southerly route would deprive all of the population of North Dakota, Minnesota, Montana, Wyoming and a large part of the population of South Dakota practical access to rail passenger service; and

"Whereas, east-west passenger service available to the people of North Dakota and South Dakota is very limited in comparison to the east-west service which would be available for the same areas if the Chicago, Milwaukee, St. Paul and Pacific Railroad route were utilized for rail passenger service; and

"Whereas, one of the objectives of the Act is to improve the financial structure and strengthen railroad companies, and the Chicago, Milwaukee, St. Paul and Pacific Railroad is financially distressed, having recently experienced large operating losses:

"Now, therefore, be it resolved, by the House of Representatives of the Forty-sixth Legislature of the State of South Dakota, the Senate concurring therein, that the Secretary of Transportation is hereby respectfully requested to reconsider announced plans for a northern route for the National Rail Passenger Corporation service which would permanently leave the people of South Dakota entirely without railroad passenger service and to determine the feasibility of utilizing the main line of the Chicago, Milwaukee, St. Paul and Pacific Railroad for such service, which would also provide balanced railroad passenger service to all the states of the northern plains; and

"Be it further resolved, that copies of this Concurrent Resolution be transmitted by the Chief Clerk of the House of Representatives of the State of South Dakota to the offices of the President and Vice President of

the United States, the Secretary of Transportation, the Interstate Commerce Commission, and the Congressional Delegation of the State of South Dakota."

A joint resolution of the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 503

"A joint resolution memorializing the Congress of the United States to amend the Constitution of the United States in accordance with article V of said Constitution

"Whereas, a resolution of our nation's myriad and diverse problems is contingent upon a viable partnership between the federal government and strengthened state governments; and

"Whereas, increasing demands upon state and local governments for essential public services have compelled the states to rely heavily on highly regressive and inelastic consumer taxes and property taxes; and

"Whereas, federal revenues based predominantly on income taxes increase significantly faster than economic growth, while state and local revenues based heavily on sales and property taxes do not keep pace with economic growth; and

"Whereas, the fiscal crisis at state and local levels has become the overriding problem of intergovernmental relations and of continuing a viable federal system; and

"Whereas, the evident solution to this problem is a meaningful sharing of federal income tax resources; and

"Whereas, the United States Congress, despite the immediate and imperative need therefor, has failed to enact acceptable revenue sharing legislation; and

"Whereas, in the event of such congressional inaction, article V of the Constitution of the United States grants to the states the right to initiate constitutional change by applications from the Legislatures of two-thirds of the several states to the Congress, calling for a constitutional convention; and

"Whereas, the Congress of the United States is required by the constitution to call such a convention upon the receipt of applications from the Legislatures of two-thirds of the several states:

"Be it resolved, by the House of Representatives of the State of South Dakota, the Senate concurring therein, that pursuant to article V of the Constitution of the United States, the Legislature of the state of South Dakota does hereby memorialize and make application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing to the several states a constitutional amendment which shall provide that a portion of the taxes on income levied by Congress pursuant to the sixteenth amendment of the Constitution of the United States shall be made available each year to state governments and political subdivisions thereof, by means of direct allocation, tax credits, or both, without limiting directly or indirectly the use of such moneys for any purpose not inconsistent with any other provision of the Constitution of the United States; and

"Be it further resolved, that this application shall constitute a continuing application for such convention pursuant to article V until the Legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by this Legislature; and

"Be it further resolved, that certified copies of this resolution shall be presented forthwith to the President of the Senate and the Speaker of the House of Representatives of the United States and to the Legislatures of each of the several states attesting the adoption of this resolution by the Legislature of the state of South Dakota.

A joint resolution of the Legislature of the State of Nevada; to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION No. 8

"Joint resolution memorializing the Congress of the United States to establish a national cemetery in southern Nevada.

"Whereas, An increasing number of military personnel are spending their retirement years in southern Nevada; and

"Whereas, The inaccessibility of existing national cemeteries makes it impossible for the families of western veterans to provide for the interment of their loved ones in a cemetery fitting as a remembrance to the career pursued; and

"Whereas, Southern Nevada is an ideal location for the establishment of a national cemetery; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, jointly, That the legislature of the State of Nevada hereby respectfully memorializes the Congress of the United States to establish a national cemetery in southern Nevada; and be it further.

"Resolved, That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives and each member of the Nevada congressional delegation."

A resolution of the Congress of Micronesia; to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 5, S.D. 1

"A Senate resolution requesting the Special Committee of Twenty-Four of the United Nations to visit the Trust Territory of the Pacific Islands to examine the present and future status of self-government for the Trust Territory, and for other purposes.

"Whereas, Article 76 of Chapter XII of the Charter of the United Nations sets forth the basic objectives of the trusteeship system to be the promotion of 'the political, economic, social, and educational advancement of the inhabitants of the trust territories, and . . . progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the people concerned . . .'; and

"Whereas, The United States of America as a member nation of the United Nations assumes these responsibilities and obligations with regards to the former Japanese Mandated Islands, namely the Trust Territory of the Pacific Islands; and

"Whereas, The duly elected representatives of the people of the Trust Territory of the Pacific Islands in Congress of Micronesia assembled have sought the early resolution of the future political and constitutional status of the Trust Territory of the Pacific Islands and established a Political Status Commission to examine reasonable and practical political alternatives open to the Micronesians and their most democratic way in which the wishes of the people may be ascertained with respect to this important matter; and

"Whereas, after expensive study, travel, and discussions with representatives of the United States as an Administering Authority on the future political status of Micronesia, the Future Political Status Delegation submitted a final Report, recommending, among other things, the status alternative of 'free association with United States' and advising the Congress of the offer of the United States of a Commonwealth' status for the Trust Territory of the Pacific Island; and

"Whereas, The Third Congress of Micronesia, Third Regular Session, adopted the Report of its Political Status Delegation and rejected the offer of the United States of America; and

"Whereas, by Senate Joint Resolution No. 100, adopted in 1970, the Third Congress duly informed the United Nations of its action, and expressly solicited advice and any comments from the United Nations or any of its organs or instrumentalities as may be appropriate under the circumstances; and

"Whereas, The United Nations Special Committee of Twenty-Four has demonstrated its unselfish and untiring efforts in seeking self-government for all developing countries of the world community and may be in a better position to assess and review the prevailing conditions and present stage of negotiations with the United States by the people of Micronesia regarding the political status question; now, therefore,

"Be it resolved by the Senate of the Fourth Congress of Micronesia, First Regular Session, 1971, that the United Nations Special Committee of Twenty-Four be and is hereby invited to visit the Trust Territory of the Pacific Islands to examine and advise upon the present and future status of self-government for the Trust Territory of the Pacific Islands; and

"Be it further resolved that the Joint Committee on Future Status of the Congress of Micronesia is hereby requested to make arrangements for the details and timing of such visit; and

"Be it further resolved that certified copies of this Resolution be transmitted to the Secretary-General, the General Assembly, the Security Council, the Trusteeship Council, and the Special Committee of Twenty-Four of the United Nations; the President, and the Secretaries of State, Defense and the Interior of the United States; the President of the Senate, the Speaker of the House of Representatives and the Chairmen of the Senate and House Committees on Interior and Insular Affairs of the United States Congress; and the High Commissioner."

A resolution adopted by the Tomigusuku Village Assembly, Tomigusuku, Okinawa, demanding the immediate removal all poison gas weapons from Okinawa; to the Committee on Armed Services.

A resolution adopted by the Tomigusuku Village Assembly, Tomigusuku, Okinawa, demanding the transfer to the Government of the Ryukyu Islands of the right to make criminal investigation and jurisdiction as to the offenses committed by the members and civilian components of the U.S. Army Forces; to the Committee on Armed Services.

A resolution adopted by the Lithuanian American Council, Inc., Rochester, N.Y., relating to Indochina and Eastern and Central Europe; to the Committee on Foreign Relations.

A resolution adopted by the Tennessee Association of Conservation Districts, Moscow, Tenn., relating to surface mining; to the Committee on Interior and Insular Affairs.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. BAYH, from the Committee on the Judiciary, with amendments:

S.J. Res. 7. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older (Rept. No. 92-26).

BILLS AND JOINT RESOLUTIONS INTRODUCED

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. BAYH (for himself, Mr. HARRIS, Mr. HART, and Mr. RANDOLPH):

S. 1127. A bill to protect the constitutional rights of those subject to the military justice system, to revise the Uniform Code of Military Justice, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BAYH:

S. 1128. A bill for the relief of Gaspar Ramos. Referred to the Committee on the Judiciary.

By Mr. PROXMIER:

S. 1129. A bill to improve and reform the foreign military assistance program of the United States. Referred to the Committee on Foreign Relations.

By Mr. HRUSKA (for himself and Mr. CURTIS):

S. 1130. A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. YOUNG:

S. 1131. A bill to amend the Agricultural Adjustment Act of 1938 to provide that review committee members may be appointed from any county within a State. Referred to the Committee on Agriculture and Forestry.

By Mr. CRANSTON:

S. 1132. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; and

S. 1133. A bill to amend the Omnibus Control and Safe Streets Act of 1968, to provide assistance for the development of non-lethal weapons and police protection equipment, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MOSS (for himself and Mr. HANSEN):

S. 1134. A bill to amend the Internal Revenue Code of 1954 to clarify the status of certain oil well service equipment under subchapter D of chapter 36 of such Code (relating to tax on the use of certain vehicles). Referred to the Committee on Finance.

By Mr. MONDALE:

S. 1135. A bill for the relief of Ellin Gorky; and

S. 1136. A bill for the relief of Michael Langham. Referred to the Committee on the Judiciary.

By Mr. BAKER:

S. 1137. A bill to amend section 123(3) of title 28 of the United States Code, so as to transfer Obion County and Lake County from the Eastern to the Western Division of the Western District of Tennessee. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1138. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide an optional exemption from coverage for individuals who have attained age 65. Referred to the Committee on Finance.

By Mr. BAKER (for himself and Mr. HRUSKA, Mr. RANDOLPH, and Mr. TAFT):

S.J. Res. 66. A joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself, Mr. HARRIS, Mr. HART, and Mr. RANDOLPH):

S. 1127. A bill to protect the constitutional rights of those subject to the military justice system, to revise the Uniform Code of Military Justice, and

for other purposes. Referring to the Committee on Armed Services.

REVISION OF UNIFORM CODE OF MILITARY JUSTICE

Mr. BAYH. Mr. President, today I am introducing a bill which I believe is one of the most comprehensive—and at the same time realistic and workable—plans ever proposed for the meaningful reform of our military justice system.

The main thrust of the bill is an attempt to eliminate completely all danger of command influence, the possibility—or even the appearance—that the commanding officer of an accused man could affect the outcome of his court-martial. This reform, together with other substantial improvements embodied in the bill, requires a complex and far-reaching restructuring of the Uniform Code of Military Justice and the entire military justice system. But I believe that such reforms are essential to the continued vitality of the system. As long as the remotest possibility of undue command influence remains, we will never be able to avoid the implication—or at least the appearance—of fundamental unfairness. And no such system of justice can earn or maintain the respect of those it serves.

Mr. President, during my remarks, I shall refer repeatedly to command influence and to the commanding officer. It is my judgment that most commanding officers in the military forces of this country try their best to be fair. They try to see that those whom they command are treated justly, whether on the battlefield, in the barracks, or in the military courts-martial room. But military laws need to be structured in such a way that those few commanding officers who might yield to the temptation and not be fair are denied this opportunity to affect the case of one of the soldiers, sailors, or airmen who serve in their commands.

Mr. President, I believe that this proposal—although designed to end the danger of command influence and to effect other badly needed reforms—recognizes the legitimate concern our Armed Forces do and must have with maintaining discipline and preserving order. The reformed system of courts-martial would continue to be operated within the framework of military command, although the bill envisions a separate Courts-Martial Command, removed from the influence of individual commanding officers and concerned only with the fair administration of the system of military justice. And individual commanding officers would retain the power to punish minor infractions under the provisions of article 15 of the UCMJ.

This bill is an extended and revised version of S. 4191 which I introduced late in the 91st Congress. S. 4191 was introduced last August, not in the hope of immediate action, but in order to provoke thought and comment on the issue generally and on the merits of my proposal. After introduction, I sent copies of S. 4191 to a number of military and civilian experts specializing in military law, both in Washington and elsewhere. I received a wide range of comments, all of them

constructive, and almost all of them favorable.

In redrafting the bill we took these comments into account and made a series of improvements. The bill contains two major changes of substance from the earlier proposal. First, it would eliminate the much-criticized summary court-martial. Second, it contains a new section—not paralleled in the present UCMJ—defining each party's rights to discover information held by the other in the course of a court-martial.

Mr. President, I believe that we will see major legislative reforms in the military justice system in the 92d Congress. I have talked with the distinguished Senator from North Carolina (Mr. ERVIN), who has long been in the forefront of the efforts to reform our military justice system, about this subject. Senator ERVIN informs me that his Subcommittee on Constitutional Rights, of which I am a member, is anxious to take another look at the problems of our military justice system, and that he is interested in further reform.

Senator ERVIN is the author of a far-reaching measure designed to correct the shortcomings in our administrative discharge system. Other legislation has been proposed.

I look forward to participating in the subcommittee's hearings, and I have the greatest confidence that the subcommittee will come up with substantial, and at the same time realistic, reform proposals. My confidence stems both from my long experience with the great dedication the Senator from North Carolina has for preserving our cherished constitutional rights, and from my experience with the subcommittee's previous efforts in this area.

In 1966, the Subcommittee on Constitutional Rights, together with the Committee on Armed Services, conducted several weeks of hearings on military justice. These hearings led to the most recent amendments to the Uniform Code of Military Justice, known as the Military Justice Act of 1968. That legislation is a tribute to the outstanding and extraordinary teamwork between two great Senate committees, and I am confident that this exceptional relationship will continue.

I hope that the Armed Services Committee will again join in this effort from the outset. I hope that new hearings will explore the problems equally as successfully, as was the case in the past, so that we can have meaningful reform by the end of this Congress.

SUMMARY OF THE BILL

Mr. President, before I go into detail about the specific provisions, I would like to give a quick summary of the major provisions of this measure, for the benefit of my colleagues in the Senate.

The main objective of the bill is to eliminate completely the problem of command influence, as I have stated. The bill would establish an independent Courts-Martial Command composed of four divisions: defense, prosecution, judicial, and administration. This command would be responsible only to the

Judge Advocate General, thereby removing defense and prosecuting attorneys from the control of the accused's commanding officer. Under the present system of military justice, the prosecuting officer and the defense officer in any given court-martial are directly responsible to the commanding officer of the command which brings the charges against the enlisted man or officer brought before the court-martial proceeding.

Each accused would be entitled to have an independent defense counsel appointed upon request immediately following arrest. He would also have the right to a formal hearing, similar to the hearing required by rule 5 of the Federal Rules of Criminal Procedure, in front of an independent military judge within 24 hours of arrest. Thus, the commander would no longer have the final voice in deciding whether to prosecute.

Several crucial decisions now made by the commanding officer or the prosecutor would be delegated to the independent military judges. At present, the commanding officer has the sole power to authorize searches and issue arrest warrants. Under the new bill, these decisions, which deal with critically important constitutional rights, would be made by an independent judge. In like manner, the military judge—not the commander—would have the power to release an accused serviceman pending trial or pending appeal. Under present law, the prosecutor has the exclusive power to issue subpoenas, and this authority would also be vested in the military judge under the bill.

The commanding officer—the convening authority—now performs the initial review in many cases. This procedure has become, for the most part, either a time-consuming formality or an invitation to impose maximum sentences so that the commander can reduce them. The power to review would be transferred either to the Judge Advocate General or to the military courts, depending on the nature of the case. The power to suspend or reduce sentences would be transferred from the commanding officer to the military judge.

At the present time, the commander has exclusive power to choose members of the court—the jurors. This widely criticized power would be eliminated and a completely random system of selection would be substituted in its place. The bill would also abolish the requirement that two-thirds of the members of the court-martial be officers.

In addition to measures aimed exclusively at eliminating command influence, the bill would provide for a number of other reforms.

The revised bill I am introducing today would eliminate the summary courts-martial. These proceedings—which are conducted by one man who presents the evidence for the prosecution, listens to and evaluates the evidence of the defendant, rules on questions of law and fact, and also determines the sentence—are inconsistent with the whole thrust of this reform bill. And that would be true even if the summary court-martial officer were not ap-

pointed—as he is today—by the defendant's commanding officer. It is simply unfair to let a serviceman suffer a burden which is the equivalent of a criminal conviction without granting him all the procedural safeguards that are fair and practicable.

Military judges would be present at all trials, and would have the power to "issue all writs necessary or appropriate in aid of" their jurisdiction. They would also be given the same power Federal judges now have to punish for contempts in their presence. The Court of Military Appeals would be enlarged from three to nine judges and authorized to sit in panels of three judges, in order to increase the court's continuity and its capacity to handle the increased workload. And the Supreme Court would be empowered to issue writs of certiorari to review cases decided by the Court of Military Appeals.

The bill would also extend additional substantive and procedural rights to each defendant. For the first time there would be no possibility of double jeopardy problems. Trying a defendant by court-martial after trial in a State court for the same act, and vice versa, would be forbidden. And military defense attorneys would be specifically authorized to seek collateral relief for their clients in civilian courts whenever appropriate, relief often unavailable today unless the accused serviceman obtains civilian counsel. The accused would get complete credit toward any ultimate sentence for any pretrial confinement. Finally, all confined servicemen—including those awaiting trial or appeal—would be permitted to participate in work, exercise, and rehabilitation programs wherever adequate facilities were available.

New in this year's provision is a discovery section, modeled after the Federal rules, to define each party's rights to obtain information held or controlled by the other party. This subject is not covered by the present code, and I have been informed by several experts that greater specificity in this area would be of great value to all parties concerned.

A committee composed of the judge advocate generals of each of the services and three civilians appointed by the President would be charged with studying and making recommendations about the following questions: the desirability of transferring jurisdiction over absence offenses to the Federal courts; additional methods of eliminating delays in the appellate process; means of dealing with prisoners who complete the service of their sentence to confinement prior to the completion of appellate review; and revisions in the current table of maximum punishments.

THE NEED FOR REFORM

Mr. President, the quality of the military justice system is perhaps more important today than ever before. The men now in uniform serve in an army which has changed substantially over the years. Most of these men will not see combat. Many of them live off post and serve in a military capacity only during normal working hours. In many ways there is an increased similarity between military

service and skilled civilian occupational pursuits. We cannot afford to subject these men to a second-rate system of military justice.

Moreover, there are now nearly 4 million men under arms. Most of these men are young and impressionable, and some will be confronted with American justice for the first time while serving in the Armed Forces. The 1969 report of the Judge Advocate General of the U.S. Army noted that in the Army alone there were 76,320 courts-martial, 94 percent which resulted in convictions. If we are to preserve the integrity of our civilian system, we must see to it that these men return to civilian life with a view of criminal justice that recognizes the fundamental principles of fairness and human dignity. We must see to it that no man is convicted and confined, his life perhaps ruined, without having been accorded full procedural and substantive safeguards.

In light of the increasing importance of the military justice system, we must review its quality, and the fundamental question of its fairness.

The most serious shortcoming in our military justice system is the danger of undue command influence over courts-martial, which may impose numerous penalties, including dishonorable discharge, lengthy imprisonment, or even death. In courts-martial, the commander determines whether to prosecute, controls the court-martial procedure, and plays an integral role in the appellate process. He authorizes searches and arrests, convenes the court-martial, and decides whether the accused serviceman shall remain in pretrial confinement. He chooses the prosecuting attorney and, in some instances, the defense counsel. Finally, he chooses the men to serve as members of a court, the military equivalent of jurors, reviews the findings and sentence, and decides whether a sentence to confinement shall be deferred pending appeal.

In addition to the danger presented by command influence, the military justice system denies a defendant other rights fundamental to a free society. He may be denied credit for time spent in confinement before trial. His military counsel may be precluded from seeking collateral relief. He must apply to the prosecuting counsel, rather than the independent military judge, for subpoenas.

These shortcomings must be remedied, and they must be remedied now. We ask our young men by the millions to give their time and their energies to strengthen our national defense. And we have asked them by the tens of thousands to give their lives on our behalf. I believe we can delay no longer in giving these men a first-class system of military justice.

The need for reform is urgent. But reform cannot be allowed to come in a piecemeal fashion. Individual, patchwork alternations might well suffice to plug some of the smaller gaps in the system. What is urgently needed, however, is a comprehensive revision of the uniform code, a reform which will make military justice conform as nearly as possible to the civil system we find in our State and

Federal courts. But at the same time any such proposal must recognize the armed services' legitimate concern to maintain discipline and preserve order.

The legislation which I am introducing today is such a reform. It is a comprehensive revision of all parts of the Uniform Code of Military Justice dealing with courts-martial, from the moment of arrest to the final disposition of appeals and the completion of confinement. I believe that this proposal would insure every American serviceman the kind of speedy, fair, and impartial judicial system to which he is entitled.

COMMAND INFLUENCE

Mr. President, I would like briefly to explain the bill's major provisions and to give an example of how the revised code would apply to a typical court-martial proceeding from beginning to end.

The bill would eliminate all forms of command influence over the court-martial process and proceedings. It would vest in a separate and independent Court-Martial Command the crucial powers to convene courts-martial; to detail military judges and defense and prosecuting attorneys; and to choose the members of the court—the jury.

Such an independent command is absolutely essential to a fair system.

The Uniform Code of Military Justice was a landmark reform and an important step forward in ensuring fundamental fairness of military justice and that code does contain a number of provisions designed to increase the rights of an accused serviceman by reducing the commander's influence over the court-martial procedure. Thus, the code prevents a commander from convening a court-martial if he has a "personal interest" in the case or if he is "the accuser," and prevents him from censuring, reprimanding, or admonishing any court member, law officer, or counsel with respect to the findings of a court or for the sentence imposed or in any manner attempting by unlawful means to influence the action of a court-martial or any member thereof. But we have not yet provided the full measure of protection required. As long as the commander makes all decisions there is a continuing possibility of improper command influence, and the right to a fair and impartial trial remains in jeopardy.

The commander controls the whole court-martial process. He continues to have and to exercise the authority and responsibility to appoint a subordinate to conduct a preliminary investigation.

The officer appointed by the commander to conduct an investigation under article 32 is subject to all of the inherent pressures of a command whose legitimate concern is discipline. This procedure appears to be incompatible with the fundamental principle of civilian jurisprudence which provides that no person should be subjected to a criminal trial unless the prosecutor can demonstrate to an impartial magistrate or grand jury that there is probable cause to believe, first, that a crime has been committed and, second, that this crime was committed by the accused.

The recommendations of the officer conducting the article 32 investigation, as well as those of the commander's legal officer, are not binding upon the commander and are purely advisory. As a result, military law suffers from the absence of any binding legal decision as to the allocation of prosecutorial resources. The regard for efficient allocation of prosecutorial resources and the even-handed administration of justice which characterize the typical U.S. attorney or State district attorney's office, is therefore, reduced in the military system.

In those instances where the accused is entitled to military legal counsel, the choice of those available to defend the accused remains generally in the hands of the commander. In addition, the commander chooses the counsel who prosecutes the case. The possession of the power to choose the defense counsel and the prosecutor gives the appearance of permitting the commander, by manipulating the choice of personnel, to control the outcome of the case.

Unlike the civilian system, where the accused is entitled to trial by a jury of his peers selected at random, the commander is empowered, virtually without limitation, to choose the members of a court-martial—those who serve in effect, as jurors. While an accused enlisted man is entitled to request that one-third of the court be composed of enlisted men, the selection of those enlisted men who are to serve in the event of such a request is in the hands of the commander. The practice of selecting only senior non-commissioned officers, who are considered more severe than commissioned officer, has been upheld by the Court of Military Appeals. And, while he is required to select those best qualified, there is nothing to preclude a commanding officer from selecting officers known by him to be particularly strict or notably hostile to certain types of alleged offenses. This entire system of selection gives the impression of a "hand picked" jury and is clearly incompatible with the history and theory of trial by jury.

The Uniform Code of Military Justice provides that military appeals are to be heard initially by the convening authority who ordered the trial in the first instance. Although in theory this procedure provides an additional level of appellate review, in practice it has become a time-consuming formality—in one case, the convening authority took no action for 10 months and thereby delayed judicial appeal for that period. And in most cases its results are foregone conclusions. Moreover, it encourages some courts-martial—even when instructed to disregard the commanding officer's review authority—to adjudge automatic maximum sentences so that the commander may reduce the sentence if he so desires. This is clearly an inappropriate and undesirable procedure.

The power to place a soldier in confinement pending trial is also in the hands of the commander. This system, which permits the commander to act virtually without supervision or review

has the potential for arbitrary and vexatious action and gives the appearance of unfairness.

COURTS-MARTIAL COMMAND

This independent Courts-Martial Command would take over the functions now performed by the commander. The Courts-Martial Command would be under the administrative supervision of the Judge Advocate General and would be divided into regional commands. It would have four divisions. Prosecution, Defense, Judicial, and Administration.

The Prosecution Division would function much as the U.S. attorney's office functions in the Federal courts. It would receive complaints from any interested person, investigate them, and prefer charges only if it felt that there was sufficient evidence to convict the accused of the charges brought against him. But the determination of the Prosecution Division that the accused should be brought to trial would not be final. Just as in the civilian system, the accused would have to be brought before an independent judge—in this case a military judge. The judge would have to determine whether there was probable cause to hold the accused for trial.

After the preliminary hearing and the determination by the judge that the charges should not be dropped, the Prosecution Division would refer the case to a special or general court-martial, as it thought appropriate. The Prosecution Division would also be responsible for detailing trial counsel—now to be called the prosecutor—to courts-martial trials.

The Judicial and Defense divisions would be made responsible for detailing military judges and defense attorneys to courts-martial trials. The bill specifically provides that members of the Judicial and Defense Divisions would be responsible only to the chiefs of their respective divisions, and to the Judge Advocate General. This provision assures that the prosecution division will not be able to influence the actions of the defense or judicial divisions. The performance of the members of the latter two divisions is to be rated by members of that division alone.

I might point out, Mr. President, that under present practice the commander on any military post is the one who looks at the record. He also is the one who determines job ratings and decides whether his men are promoted.

The Administration Division would be made responsible for picking at random the members of the court, for such general administrative duties as are now performed by the trial counsel, and for detailing or employing court reporters and interpreters.

The establishment of this independent command, and the consequent abolition of the office of "convening authority," as that term is now used in the code, will eliminate any possibility or appearance that the commander, by manipulating the choice of personnel, could control the outcome of a particular case. In addition, the proposal will do much to preclude the institution of charges for what may appear to be arbitrary reasons, provide for

the efficient allocation of prosecutorial resources, and ensure the professional drafting and processing of formal charges.

The establishment of this separate command will not jeopardize the maintenance of discipline. I think this is important. We need discipline in our armed forces. Any person, including the commander, would be entitled to refer charges to the Prosecution Division for possible trial. In addition, the commander will retain the nonjudicial punishment powers granted to him by article 15. Thus, the commander will be empowered to punish minor breaches of discipline by means of the power he now possesses, and he will be able to refer more serious offenses to the Prosecution Division.

ABOLITION OF THE SUMMARY COURTS-MARTIAL

This bill would finally eliminate the summary courts-martial from the Uniform Code of Military Justice. We decided to abolish these proceedings because they are consistent with the whole thrust of this plan for reform. One officer is delegated to perform all the functions at summary courts-martial. He presents the prosecution's case, hears and evaluates the evidence offered by the defendant, decided whether or not the accused is guilty, and he determines the sentence, if any. While eliminating the commander's power to appoint the Summary Court-Martial Officer would be an improvement, but would not be sufficient. We should not allow any serviceman to suffer such a burden—a burden which is equivalent to a criminal conviction—without granting him all the procedural safeguards that are fair and practicable. By their very nature, summary courts do not and cannot afford those basic protections.

Elimination of this category of courts-martial is fully in accord with current practice and thought in the military. Before 1968 a serviceman could be given a summary court-martial over his objection if he had previously been offered and had refused an article 15 proceeding. As a result of the 1968 reform, no person may be brought to trial before a summary court-martial if he objects thereto. And since 1968 the use of summary courts has been generally discouraged; many commands have almost completely eliminated them.

As long as article 15 procedures remain available, the local commander has adequate procedures for dealing with minor infractions which really do not justify the use of a court-martial. In short, abolishing the summary courts will not impair discipline. But it will improve the quality of justice in the military.

NEW POWERS FOR MILITARY JUDGES

When a man is accused of a crime, all of the power and resources at the command of the State are brought to bear against him in an attempt to deprive him of his liberty against his will. To prevent the Government from using the resources at its disposal unjustly, significant control over the accusatory process and the trial proceedings must be

granted to independent and impartial judges.

Although the Military Justice Act of 1968 created an independent military judiciary, military judges lack many of the powers which are necessary if they are to play a significant role in the military justice process. For example, although it is now clear that the judges of the Court of Military Appeals have such power, judges of the Court of Military Review and military trial judges may lack the "all writs" power exercised by civilian judges, such as the power to issue writs of mandamus, prohibition, and *coram nobis*.

Unlike their civilian counterparts, military judges lack the ability to utilize the contempt power as a means of controlling those individuals outside the courtroom whose conduct constitutes a direct threat to courtroom discipline and to the right of the accused to a fair trial.

Accordingly, this bill would grant to military judges at the trial level the power to issue all writs necessary or appropriate in aid of their jurisdiction, as now provided in the All Writs Act. Military judges would also be given the power to punish for contempt, power which is now possessed by the Federal judiciary. Punishment would be limited to confinement for not more than 30 days or a fine not to exceed \$100 or both.

This bill would also give powers over sentencing to the professional judges. At present, the uniform code empowers the members of a court-martial to adjudge sentences. The members of a court are not experienced judges. Due to the restrictions imposed by article 37 of the code upon the type of instruction which members may receive, they often cannot and do not become familiar with the intricacies of the sentencing process. As a result, to quote the 1969 report of the Judge Advocate General of the Army:

The sentences adjudged by court members run the gamut from being so severe as to hamper rehabilitation to being too light to permit effective rehabilitation or to have any deterrent effect.

In many civilian cases, if the court were to impose the minimum sentence provided by law for a defendant found guilty of the commission of an offense, the demands of justice and equity would not be served. Accordingly, in such cases, the sentencing authority, the judge, suspends the sentence. In the military system, cases which would justify suspension of the sentence also occur. However, the sentencing authority, the members of the court or the military judge, lack the power to suspend a sentence.

Under this bill the sentencing power, including the power to issue suspended sentences—but not including sentences of death—would be transferred to the military judge. The judge would only be allowed to impose a death sentence if the crime was one for which the code specifically allows that penalty, and if the court-martial's jurors unanimously recommend that penalty. The final decision would be up to the judge, however. The recommendation would not be binding upon him. This change would place the power to sentence in the hands

of the men who are in a position to develop the expertise required, in the words of the Army Judge Advocate General, to "strike a reasonable balance between the frequently competing factors of deterrence and rehabilitation." Moreover, it would bring military justice procedures into accord with the Federal civilian practice and the practice in the large majority of State courts.

GRANTING FUNDAMENTAL RIGHTS TO THE ACCUSED

The proposed legislation would extend to servicemen certain basic rights now accorded their civilian counterparts.

The Uniform Code of Military Justice would be amended to provide for the appointment of a member of the Defense Division of the independent trial command upon request immediately following arrest. Procedurally, this would be accomplished at a formal hearing following arrest similar to the presentment required by rule 5 of the Federal Rules of Criminal Procedure.

The subpoena power—the power to compel the attendance of witnesses and the production of documents—is made available to civilian defendants through an impartial third party, the trial judge, in order to prevent the State from presenting only the evidence most favorable to its attempt to prove the guilt of those it accuses of the commission of a crime. To accord accused servicemen the same protection, the bill which I introduce today will transfer the subpoena power from the trial counsel—the prosecutor—where it now resides, to military trial judges and the requirement that expected testimony be revealed in advance would be abolished.

Under this bill, both prosecution and defense counsel would have to show that the subpoena was necessary to an adequate presentation of their case. This provision would eliminate even the appearance that the prosecutor could abuse the subpoena power by limiting the ability of the accused to present his defense effectively.

This bill also contains a section on discovery, outlining in detail the information each party can obtain from the other. Such provisions are essential to any system which attempts to provide fair trials.

The Uniform Code of Military Justice provides that no serviceman may be tried for the same act both by court-martial and in a Federal court, regardless of which trial occurs first. However, the code does not prevent a serviceman from being tried for the same act in both military and State courts, thus leaving open the distinct possibility of equally severe double jeopardy.

The bill would extend to servicemen the complete protection accorded civilians against double jeopardy by prohibiting trial by court-martial after trial in a State court for the same act, and vice versa.

Under the present law, the power to authorize the search of military persons or property on a military installation is exercised solely by the commanding officer. This officer may be the same individual who determines whether to

prosecute, controls the court-martial procedure, and reviews the findings and sentence. It is true that the commander must have "probable cause" to authorize a search and that the standards established by the Court of Military Appeals have in some cases exceeded those applying to civilian courts. However, the probable cause need not be proven to an independent authority until the court-martial itself, and there are no affidavits or other evidence available as to the probable cause at the time the search is authorized.

In the civilian justice system, however, the power to authorize searches and to issue arrest warrants is vested in an independent magistrate. In order to make the military system conform to the civilian process, the bill would vest the power to issue search and arrest warrants in the military judges, and take it away from the commanding officer.

Under the present law the only procedure for determining whether the accused should be held for trial is the investigation provided by article 32. This investigation is normally conducted by an officer who is subject to the influence of the commander pressing the charges. Furthermore, this officer is usually not trained in the law and is therefore often incapable of adequately appraising the legal sufficiency of the evidence presented to him. For this practice, the bill would substitute an initial investigation by the Prosecution Division of the charges. If that division determined that there was enough evidence, it would bring the accused before a military judge. The judge would then determine whether there was probable cause to hold the accused for trial and set bail or its military equivalent. Furthermore, he would be given the power summarily to dismiss legally or factually insufficient charges. The accused would have to be brought before the judge within 24 hours after arrest.

The practical availability of collateral relief would also be affected by this bill. Unlike civilian attorneys, military defense lawyers may seek relief in Federal courts only if given permission to do so by their immediate legal superior, the staff judge advocate. Thus, an accused who has civilian defense counsel, who is not subject to this control, may seek necessary relief in the civilian courts while an accused who is represented by a military lawyer may be inhibited in the attempt to obtain the same relief.

This bill would empower military defense attorneys, at Government expense, to seek collateral relief for their clients in civilian courts when appropriate, and would thereby make the availability of this form of relief independent of the ability of the accused serviceman to employ civilian counsel.

SELECTION OF MEMBERS OF THE JURY

The right to trial by individuals selected at random, some of whom may possess attitudes and prior experience similar to those of the accused is a fundamental tenet of American jurisprudence. In accord with this principle, the bill I am introducing would establish a system of random selection for members of general and special courts-martial.

It is especially important that enlisted men be more adequately represented on courts-martial. For it is enlisted men who are being tried in these proceedings. In a recent year, the Army tried more than 68,000 men. Of those prosecuted, only 63 were officers, less than one-tenth of 1 percent. Given this great discrepancy in the number of officers and enlisted men who go to trial, it is essential that more enlisted men serve on courts so that the accused can be judged by a jury of his peers.

I have no doubt that enlisted men could serve with honor on these courts-martial. This bill would require all members of the court to have served on active duty for a year or more. A high percentage of enlisted men possess a high school education and a substantial minority have college education—over 15 percent of those men who enlisted last year were college graduates. Thus, there should be little fear that the inclusion of enlisted men as members of courts-martial will result in the inclusion of men unqualified to serve as jurors. Moreover, the fact that the members will be selected at random will insure that the members of the courts-martial will reflect the different experiences and attitudes possessed by the various members of the community. Today's soldiers are part of a different kind of army, much of it engaged in a far different kind of conflict than we knew a generation ago. If they are to be tried for military crimes—and without in any way suggesting that the guilty be excused—they have the right to be judged by those fully familiar with the kind of army we have, the kind of war it is fighting.

In addition, in order to make the military system of selecting court-martial members conform more closely to the civilian jury selection system, the number of peremptory challenges would be increased to three per side—and per accused in a joint trial—in a special court-martial empowered to adjudge a bad conduct discharge, and six per side in a general court-martial—10 per side in a capital case. The number of peremptory challenges in a special court-martial not empowered to adjudge a bad conduct discharge will remain at one per side.

CONFINEMENT

The power to confine a citizen against his will is surely one of the most significant powers possessed by the Government. This power ought to be exercised only under the most stringent conditions and only pursuant to the most rational and enlightened procedures. Accordingly, my proposed legislation contains a number of provisions designed to modernize military confinement and sentencing procedures and policies.

The powers to decide whether an accused serviceman should be subject to pretrial confinement and to deter sentence to confinement pending appeal would be transferred from commanding officers to the independent military judges. A presumption in favor of release, which would seem to present no threat to military discipline and which would enable the accused to perform military duties and to utilize the time to prepare his defense, would also be established.

Of course, that presumption could be overridden by the judges.

The judge's rulings would be appealable as interlocutory matters to the U.S. Court of Military Review.

If the military judge decided to confine the accused prior to trial or pending appeal, the accused, like nonmilitary criminal defendants, would be entitled to full credit toward any sentence eventually imposed.

I wonder how many of us realize that if a civilian is confined to jail prior to trial and then is found guilty, the time he has served, sometimes 6 months, sometimes 9 months, is applied to the penalty meted out by the court; but that is not true of the GI or naval officer who is thrown into the stockade or the brig. For some reason or another we have omitted the seemingly obvious point that the time spent in pretrial detention should be deducted from the punishment meted out after trial. I hope we can correct that injustice by adopting this provision of the proposed reform.

The legislation also provides that all those confined—including those awaiting trial or appeal—are to be permitted to participate in work, exercise, and rehabilitation programs wherever adequate facilities are available.

A committee composed of judges of the U.S. Court of Military Appeals, the Judge Advocates General of the Armed Forces, and the General Counsel of the Department of Transportation—representing the Coast Guard—together with three civilians appointed by the President, would be directed to study and suggest revisions in the current table of maximum punishments. This study would be conducted with a view toward identifying and correcting apparent inequities and establishing if possible, subcategories based upon differences in elements of culpability. The study would also include an examination of the advisability of retaining the President's power to alter or suspend the table of maximum punishments as to particular geographical areas or to suspend the table for particular crimes. The committee would be directed to report to Congress within 1 year of the date of the enactment of the bill.

APPELLATE PROCEDURE

A somewhat antiquated appellate process creates unnecessary delays and imposes a heavy burden upon the judges of the Court of Military Appeals and other officials involved in the processing of appeals. My legislation is intended to improve this situation in several ways.

It would, as noted above, eliminate review by the convening authority. As a result cases which are now heard by the military courts only after a long delay for convening authority would now be appealed directly to the military courts.

Furthermore, the Uniform Code of Military Justice would be amended to allow the Judge Advocate General of each service to review the findings and the sentence of a court-martial not reviewed by the Court of Military Review.

In addition, the bill would empower the Supreme Court of the United States to issue writs of certiorari to the Court of Military Appeals. The Court of Military

Appeals is the highest court in the military justice system and its decisions often involve important questions of individual constitutional rights. The ultimate resolution of these important questions of constitutional law ought to be the responsibility of the court which is, in all other cases, considered to be the final arbiter of meaning of the Constitution. Review of military decisions by the Supreme Court should create no fear of granting the power of review to civilians outside of the military system because the Court of Military Review may be composed in part of civilians and since the Court of Military Appeals is, by law, composed only of civilians.

Finally, in order to allow the Court of Military Appeals to hear additional cases and to provide for continuity, the Revised Uniform Code of Military Justice would increase the number of judges who sit on this court to nine and empower the court to sit in panels of three judges each. This will triple the time available for the court to deal with its heavy workload with no great increase in cost.

STUDY OF OTHER PROBLEMS

There are three other aspects of the military justice system which perhaps should be modified. Rather than delay those reforms which can and should be enacted immediately, section 4 would direct a special committee composed of judges of the Court of Military Appeals, the Judge Advocates General of the Armed Forces, the General Counsel of the Department of Transportation for the Coast Guard, and three civilians appointed by the President, to study these problems and to recommend solutions within 1 year of the date of passage of the act.

Specifically, the committee would be directed to study: First, the desirability over some absence offenders to the Federal courts; second, methods, other than those I have outlined, of eliminating delays in the appellate process; and, third, methods of handling prisoners who complete the service of sentence to confinement prior to the completion of appellate review.

HOW THE NEW CODE WILL WORK

Mr. President, in order to illustrate how the new code will work, I would like to take a hypothetical example of a soldier arrested for a crime and to follow him through the court-martial procedure as I have proposed it.

Suppose that Private Jones were arrested—article 7(a)—by the military policeman late at night for committing a crime on post. The arresting MP immediately notified a representative of the Prosecution Division of the local Regional Court-Martial Command, and the investigation was immediately coordinated between investigative and legal personnel—article 30(a). Private Jones declined to make a statement about the offense—article 31—but had likewise declined to exercise his right to the presence of a lawyer.

Within 24 hours of Jones' arrest, the military police brought him before a local independent military judge—article 32 (a)—who advised him of his rights, including his right to have a preliminary

examination—article 32(c)—set bail pursuant to regulations, and appointed free counsel from the defense division. The judicial and defense divisions of the Regional Command are independent of all local control, and indeed of any control in the Court-Martial Command except within their own division—article 6a(f). In addition, the judge required that Jones be formally charged by the prosecution division at that time and examined the charge to see that it stated an offense. If Jones had not been charged within 24 hours after arrest, he would have been ordered released until he was charged—article 32(b).

Jones requested that counsel be appointed for him, and after consultation with counsel he decided to request a preliminary hearing—article 32(d). The judge set this hearing for 2 weeks hence, and instructed Jones' counsel that if he needed it, he could request a continuance in order to prepare his case—article 40. The judge also ordered that Jones be restricted to his company area. Since this restriction was not particularly onerous, Jones decided not to appeal it to the Court of Military Review as an interlocutory matter.

Two weeks later, a preliminary hearing was held before the same judge who presided at the presentment. The Government was represented by a lawyer from the prosecution division, and the defense was represented by a lawyer from the defense division—the same lawyer who had been advising Jones all along—article 6a(c)(d). A summarized record of the proceedings was made by a court reporter assigned by the Administration Division of the Regional Command—article 6a(3). At this hearing, Jones had a right to confront his accusers, to cross-examine witnesses against him, and "to discover the evidence against him"—article 32(d). He was shown copies of his prior statements, and statements made by prospective witnesses against him—article 39A. He also had the right to present evidence in his own behalf.

When the hearing was over, the judge found that there was probable cause to believe that Jones committed the crime charged and so, within 8 days, the judge transmitted the case, including the summarized record, to the prosecution division of the Regional Command for trial—article 33(a). The prosecution division decided that there was sufficient evidence upon which to prosecute, and that a general court-martial was the appropriate level trial, and so it "referred" the case to trial by a general court-martial, and notified all parties concerned—article 33(b). Likewise it notified the administration division to "convene" a court-martial, that is, to order members of the Armed Forces within its geographical jurisdiction to appear at the appointed time for a court-martial—article 1(15). This selection was made on a random basis, and was done without regard to rank—article 25(b).

In the meantime, Jones had been arbitrarily picked up from his company area, and he was being held incommunicado in the post stockade. His military counsel filed a petition for a writ of habeas corpus with the local military judge, but it

was denied without reason—article 26(a)(2). An appeal to the Court of Military Review and to the Court of Military Appeals likewise failed—article 66(i). Since the trial date was approaching and Jones' lawyer needed to talk to him, the military counsel then filed a petition for a writ of habeas corpus and for injunctive relief in the local Federal district court—article 38(c). There, after a hearing, Jones was ordered released.

A search warrant had been obtained earlier in this case by a request from the prosecution division to a military judge—article 46(b)—supported with a written affidavit from a military policeman making out probable cause to search, and particularly describing the thing to be seized and the place to be searched—article 46(b)(2).

Before trial, Jones had an opportunity to present to the military judge motions, to suppress the evidence obtained by this search and other motions to suppress, and the judge ruled on them—article 39(a)(1). Also, Jones requested that the military judge subpoena his mother from the next county to appear as a character witness for him. The judge found the request reasonably necessary to insure an adequate defense, and so he signed the subpoena—article 46(a). If she failed to appear, the judge could have punished her for contempt—article 48(b)(3).

When the trial began, Jones had a right to challenge six jurors peremptorily, as did the Government—article 41(a). The judge ruled finally on all challenges for cause. Since enough court members had been summoned to appear by the administration division, seven jurors plus one alternate were selected.

Upon conviction, the judge heard evidence in extenuation and mitigation, and passed sentence on Jones—article 26(a)(1). At this time, Jones asked the judge to defer his sentence to confinement pending appellate review, but the judge denied the request—article 57(a). The judge, however, accompanied his denial with a written statement pointing out that in his opinion, Jones would likely flee to avoid confinement, because he has previously been convicted of an absence offense—article 57(a). Jones' counsel appealed this determination as an interlocutory matter to the Court of Military Review—article 57(d)—and since the judge's determination was reasonable, the appeal was denied.

During all the time Jones was in confinement, he was able to take part in rehabilitative programs conducted by the stockade—article 58(b)—and all time spent in confinement following his arrest was deducted from the sentence eventually imposed—article 57(b).

The record of trial was expeditiously prepared by the administration division of the regional command under the supervision of the prosecutor—article 38(a)—and when completed, was forwarded without further review at this level directly to the Court of Military Review—article 66(b).

The Court of Military Review functioned as an intermediate-level military court, statutorily independent of command control with respect to its judicial functions—article 66(a)—and having

the power to issue all writs—article 66(i)—to review matters of fact and law, and to review the appropriateness of the sentence. When the case was appealed automatically to this court, appellate counsel assigned to the Office of the Judge Advocate General were appointed to represent Jones, upon his request—article 70.

When the Court of Military Review affirmed Jones' conviction, Jones had a right to appeal further to the Court of Military Appeals, since his original sentence included a punitive discharge, or confinement for a year or more—article 67. Pending that appeal, Jones, sentence was not executed—article 71(c). A panel of three judges from the nine-member Court of Military Appeals—article 67—also affirmed Jones' conviction.

If Jones and his counsel had considered that a significant constitutional issue was still unsatisfactorily resolved in his case, they could have petitioned for a writ of certiorari to the Supreme Court (28 U.S.C. 1259), and Jones could have been represented before that Court by appointed military counsel—article 70(e).

CONCLUSIONS

Mr. President, some critics of the military justice system so distrust the military's capability in this area that they would abolish or virtually abolish the power of the services to punish civilian-type felonies in time of peace. I have made the proposals which I have outlined above in the belief that the time for such drastic surgery has not yet arrived. Few civilian crimes are tried in the military courts. The special civilian committee for the study of the U.S. Army confinement system has estimated that of the prisoners placed in confinement by the military, at least 85 percent and perhaps as many as 90 percent are men who have either absented themselves without leave or deserted. These, of course, are crimes uniquely within the purview of the military courts. Another 3 to 5 percent are imprisoned for other military type offenses, such as disrespect of a superior officer, failure to obey a lawful order, and breaking restriction. While these figures do not include the number of men tried and acquitted or tried and not sentenced to confinement, it does appear that the total number of men who are processed by the military justice system for civilian offenses is very small. I believe that these men would be adequately protected if the reforms I have suggested were to be enacted into law.

Moreover, the Supreme Court and the Court of Military Appeals have decided that court-martial jurisdiction does not extend to civilian dependents or employees abroad in time of peace, whether they are accused of capital or noncapital offenses. In addition, the Supreme Court has decided that court-martial jurisdiction extends only to these individuals who are members of the armed services both at the time of the commission of the offense and at the time of trial. Finally, the Supreme Court, in the recent case of O'Callahan against Parker, has decided that members of the Armed Forces can be court-martialed for service-connected crimes only. Under these

circumstances, and with the hope of enactment of significant reforms, I do not believe that further curtailment of court-martial jurisdiction over civilian-type offenses is appropriate at this time.

However, I do believe that reform is necessary and desirable. The enactment of the Military Justice Act of 1968 clearly resulted in an improvement of our system of military justice. Experience has already revealed, however, that the enactment of this important legislation did not sufficiently reduce the effects of command influence—of justice by fiat—and did not succeed in guaranteeing to our men in uniform the same rights and safeguards provided their civilian counterparts. Greater reform is urgently required.

Military commanders should not be concerned that the more equitable system of justice created by my proposed legislation will serve to undercut the discipline which we all recognize as necessary to an effective armed force. Indeed, experience has taught us that inequitable laws spawn disrespect for the law, and disrespect in turn eventually leads to disobedience. Moreover, for relatively minor matters—matters of discipline rather than criminal law—the commander will retain the well-established powers of nonjudicial punishment granted to him by article 15 of the Uniform Code of Military Justice.

My proposals will not, I believe, greatly increase manpower requirements beyond the increases which have already occurred in order to implement the Military Justice Act of 1968. Rather, I believe that they will enable the Armed Forces to utilize present legally trained personnel more efficiently and effectively. Moreover, any desirable increase in personnel could be met by the enactment of legislation designed to improve the retention rate of experienced legal officers. On December 2, 1969, the House passed H.R. 4296, providing for professional pay for judge advocates. Its Senate counterpart, S. 704, introduced again this year by the Senator from Hawaii (Mr. INOUE) is now pending before the Senate Armed Services Committee. The enactment of this legislation by the Senate would do much to solve the retention problem.

Mr. President, I believe that the legislation which I have introduced will help create a better system of military justice, a system which will not only bear scrutiny but which will invite admiration.

Mr. President, I hope that the Senate can give immediate attention to this matter. As I mentioned earlier, we have today an army of 4 million young men. Most of these young men are going to come in contact with military justice in one form or another while they are serving their country. If we are to create, at an early age the respect for the law which these young men ought to take back into civilian life, I think it is imperative that we see that justice is justice, whether it is civilian or military. I recommend the consideration by our colleagues of this important piece of legislation as a way in which we can establish true justice in the military.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD at the conclusion of my remarks.

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

S. 1127

A bill to protect the constitutional rights of those subject to the military justice system, to revise the Uniform Code of Military Justice, 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 "Military Justice Act of 1971".

Sec. 2. Articles 1 through 76 and 133 of the Uniform Code of Military Justice are repealed, and the following sections are substituted in lieu thereof:

"SUBCHAPTER I.—GENERAL PROVISIONS

"Sec. Art.

"801. 1. Definitions.

"802. 2. Persons subject to this chapter.

"803. 3. Jurisdiction to try certain personnel.

"804. 4. Dismissed officer's right to trial by court-martial.

"805. 5. Territorial applicability of legal officers.

"806. 6. Judge advocates and legal officers.

"806a. 6a. Court Martial Command.

"§ 801. Article 1. Definitions

"In this chapter:

"(1) 'Judge Advocate General' means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, the General Counsel of the Department of Transportation.

"(2) The Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy, shall be considered as one armed force.

"(3) 'Commanding officer' includes only commissioned officers.

"(4) 'Officer in charge' means a member of the Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority.

"(5) 'Superior commissioned officer' means a commissioned officer superior in rank or command.

"(6) 'Cadet' means a cadet of the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard academy.

"(7) 'Midshipman' means a midshipman of the United States Naval Academy and any other midshipman on active duty in the naval service.

"(8) 'Military' refers to any or all of the armed forces.

"(9) 'Accuser' means a person who signs charges, any person who directs that charges nominally be signed by another, and any other person who has an interest other than an official interest in the prosecution of the accused.

"(10) 'Military judge' means a commissioned officer detailed in accordance with section 826 of this title (article 26).

"(11) 'Law specialist' means a commissioned officer of the Coast Guard designated for special duty (law).

"(12) 'Legal officer' means any commissioned officer of the Navy, Marine Corps, or Coast Guard designated to perform legal duties for a command.

"(13) 'Judge Advocate' means an officer of the Judge Advocate General's Corps of the Army or the Navy or an officer of the Air Force or the Marine Corps who is designated as a judge advocate.

"(14) (Omitted.)

"(15) 'Convening the court-martial' means ordering to the place of trial at the appointed time, those persons selected as potential

jurors pursuant to article 25 for the trial of such cases as may be brought before them.

"(16) 'Court-Martial Command' means a separate and independent command established pursuant to article 6a, located for administrative purposes in the office of the Judge Advocate General of each service, and subdivided into two or more Regional Commands.

"(17) 'Regional Command' means a subdivision of the Court-Martial Command with direct responsibility for the administration of military justice within such geographical jurisdiction as the Secretary concerned shall by regulation establish.

"(18) 'Initial appearance' means the taking of a person subject to this chapter before a military judge, pursuant to section 832 of this chapter.

"§ 802. Art. 2. Persons subject to this chapter
"The following persons are subject to this chapter:

"(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

"(2) Cadets, aviation cadets, and midshipmen.

"(3) Members of a reserve component while they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this chapter.

"(4) Retired members of a regular component of the armed forces who are entitled to pay.

"(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

"(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

"(7) Persons in custody of the armed forces serving a sentence imposed by a court martial.

"(8) Members of the Environmental Science Services Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

"(9) Prisoners of war in custody of the armed forces.

"(10) In time of war formally declared by Congress, persons serving with or accompanying an armed force in the field.

"§ 803. Art. 3. Jurisdiction to try certain personnel

"(a) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to section 843 of this title (article 43), subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

"(b) No person who has deserted from the armed forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

"§ 804. Art. 4. Dismissed officer's right to trial by court-martial

"(a) If any commissioned officer, dismissed by order of the President, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the President, as soon as practicable, shall order convened a general court-martial to try that officer on the charges on which he was dismissed. A court-martial to try that officer on the charges on which he was dismissed. A court-martial so

convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The military judge may, as part of his sentence, adjudge the affirmation of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal or death, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

"(b) If the President fails to order convened a general court-martial within six months from the presentation of an application for trial under this article, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

"(c) If a discharge is substituted for a dismissal under this article, the President alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the President, that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

"(d) If an officer is discharged from any armed force by administrative action or is dropped from the rolls by order of the President, he has no right to trial under this article.

"§ 805. Art. 5. Territorial applicability of this chapter

"This chapter applies in all places.

"§ 806. Art. 6. Judge advocates and legal officers

"(a) The assignment for duty of judge advocates of the Army, Navy, and Air Force and law specialists of the Coast Guard shall be made upon the recommendation of the Judge Advocate General of the armed force of which they are members. The assignment for duty of judge advocates of the Marine Corps shall be made by direction of the Commandant of the Marine Corps. The Judge Advocate General or senior members of his staff shall make frequent inspections in the field in supervision of the administration of military justice.

"§ 806a. Art. 6a. Courts-Martial Command

"(a) There is established in the Office of the Judge Advocate General of each armed force an independent command known as the Courts-Martial Command. Such command shall function under the administrative supervision of the Judge Advocate General of the armed force concerned, and each such command shall be divided into four separate divisions as follows:

- "(1) Judicial Division;
- "(2) Prosecution Division;
- "(3) Defense Division; and
- "(4) Administration Division.

"(b) The Judicial Division of any Courts-Martial Command shall be responsible, under such rules and regulations as the President may prescribe, for the detaching of military judges, including the detaching of such judges to courts-martial trials.

"(c) The Prosecution Division of any Courts-Martial Command shall be responsible for detaching prosecutors and assistant prosecutors (when appropriate) to courts-martial trials, in addition to such other responsibilities as are set forth elsewhere in this chapter.

"(d) The Defense Division of any Courts-Martial Command shall be responsible for detaching defense counsel and assistant defense counsel (when appropriate) to represent persons entitled to such representation under this chapter. Such military investigators as

shall be required for the proper performance of its duties shall be assigned to the Defense Division of the Courts-Martial Command.

"(e) The Administrative Division of any Courts-Martial Command shall be responsible for convening courts-martial, detaching or employing qualified court reporters for courts-martial trials and for any military commission or court of inquiry.

"(f) The Judicial Division and the Defense Division shall be located in the Court-Martial Command for administrative and logistic purposes only. Members of these divisions shall be subject to the command and control of the Chiefs of the respective divisions, and the Judge Advocate General of the appropriate armed force, only.

"(g) Each Court-Martial Command shall be subdivided into two or more Regional Commands which shall have direct responsibility for the administration of military justice within its geographical area, as designated in appropriate regulations by the Secretary concerned.

"SUBCHAPTER II.—APPREHENSION AND RESTRAINT

"Sec. Art.

"807. 7. Arrest.

"808. 8. Arrest of deserters.

"809. 9. Imposition of restriction.

"810. 10. Restriction of persons charged with offenses.

"811. 11. Reports and receiving of prisoners.

"812. 12. Confinement with enemy prisoners prohibited.

"813. 13. Punishment prohibited before trial.

"814. 14. Delivery of offenders to civil authorities.

"§ 807. Art. 7. Arrest

"(a) Arrest is the taking of a person into custody or otherwise impairing his freedom of locomotion in any significant way under the authority of this chapter.

"(b) Any person authorized under regulations governing the armed forces to arrest persons subject to this chapter may do so upon reasonable belief that an offense has been committed and that the person arrested committed it.

"(c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this chapter and to arrest persons subject to this chapter who take part therein.

"§ 808. Art. 8. Arrest of deserters

"Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or possession, or the District of Columbia may summarily arrest a deserter from the armed forces and deliver him into the custody of those forces.

"§ 809. Art. 9. Imposition of Restriction

"(a) Restriction is the restraint of a person by an order, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

"(b) No person may be ordered into arrest or confinement except for probable cause.

"§ 810. Art. 10. Restriction of persons charged with offenses

"Any person subject to this chapter charged with an offense under this chapter shall be ordered into restriction or confinement only as provided in sections 815 and 832 of this chapter.

"§ 811. Art. 11. Reports and receiving of prisoners

"(a) No provost marshal, commander of a guard, or master at arms may refuse to receive or keep any prisoner committed to his charge by a military judge pursuant to section 832 of this chapter.

"(b) Every commander of a guard or master at arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is

relieved from guard, report to his commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

"§ 812. Art. 12. Confinement with enemy prisoners prohibited

"No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.

"§ 813. Art. 13. Punishment prohibited before trial

"Subject to section 857 of this chapter (article 57), no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than restriction or confinement upon the charges pending against him, nor shall the restriction or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

"§ 814. Art. 14. Delivery of offenders to civil authorities

"(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

"(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

"SUBCHAPTER III.—NONJUDICIAL PUNISHMENT

"§ 815. Art. 15. Commanding officer's nonjudicial punishment

"(a) Under such regulations as the President may prescribe, and under such additional regulations as may be prescribed by the Secretary concerned, limitations may be placed on the powers granted by this article with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this article to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. A commanding officer authorized to exercise the powers under this article may, if authorized by regulations, delegate such powers to a principal assistant.

"(b) Subject to subsection (a) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial—

"(1) upon officers of his command—
"(A) restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days;

"(B) if imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command—

"(i) restriction to quarters for not more than 30 consecutive days;

"(ii) forfeiture of not more than one-half

of one month's pay per month for two months;

"(iii) restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

"(iv) detention of not more than one-half of one month's pay per month for three months;

"(2) upon other personnel of his command—

"(A) if imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days;

"(B) correctional custody for not more than seven consecutive days;

"(C) forfeiture of not more than seven days' pay;

"(D) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

"(E) extra duties, including fatigue or other duties, for not more than 14 consecutive days;

"(F) restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days;

"(G) detention of not more than 14 days' pay;

"(H) if imposed by an officer of the grade of major or lieutenant commander, or above—

"(i) the punishment authorized under subsection (b) (2) (A);

"(ii) correctional custody for not more than 30 consecutive days;

"(iii) forfeiture of not more than one-half of one month's pay per month for two months;

"(iv) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

"(v) extra duties, including fatigue or other duties, for not more than 45 consecutive days;

"(vi) restrictions to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

"(vii) detention of not more than one-half of one month's pay per month for three months.

Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of restriction to quarters, confinement on bread and water or diminished rations, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount impossible for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, 'correctional custody' is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

"(c) An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized under subsection (b) (2) (A)-(G) as the Secretary concerned may specifically prescribe by regulation.

"(d) The officer who imposes the punishment authorized in subsection (b), or his

successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating—

"(1) restriction to quarters to restriction to other specified limits;

"(2) confinement on bread and water or diminished rations to correctional custody;

"(3) correctional custody or confinement on bread and water or diminished rations to extra duties or restrictions, or both; or

"(4) extra duties to restriction;

the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

"(e) A person punished under this article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, and the person punished may not in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposed the punishment. Before acting on an appeal from a punishment of—

"(1) restriction to quarters for more than seven days;

"(2) correctional custody for more than seven days;

"(3) forfeiture of more than seven days' pay;

"(4) reduction of one or more pay grades from the fourth or a higher pay grade;

"(5) extra duties for more than 14 days;

"(6) restriction for more than 14 days; or

"(7) detention of more than 14 days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Marine Corps, Coast Guard, or Department of Transportation for consideration and advice and may so refer the case upon appeal from any punishment imposed under subsection (b).

"(f) The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered as a mitigating factor in determining the measure of punishment to be adjudged in the event of a finding of guilty.

"(g) The Secretary concerned may, by regulation, prescribe the form of records to be kept of proceedings under this article and may also prescribe that certain categories of those proceedings shall be in writing.

"SUBCHAPTER IV.—COURT-MARTIAL JURISDICTION

"Sec. Art.

"816. 16. Courts-martial classified.

"817. 17. Jurisdiction of courts-martial in general.

"818. 18. Jurisdiction of general courts-martial.

"819. 19. Jurisdiction of special courts-martial.

"820. 20. (Omitted).

"821. 21. Jurisdiction of courts-martial not exclusive.

"§ 816. Art. 16. Courts-martial classified

"The three kinds of courts-martial in each of the armed forces are

"(1) general courts-martial, consisting of—

"(A) a military judge and seven jurors; or

"(B) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge.

"(2) special courts-martial consisting of

"(A) a military judge and three jurors; or

"(B) only a military judge, if the accused under the same conditions as those prescribed in clause (1)(B) so requests.

"§ 817. Art. 17. Jurisdiction of courts-martial in general

"(a) Each armed force has court-martial jurisdiction over all persons subject to this chapter. The exercise of jurisdiction by one armed force over personnel of another armed force shall be in accordance with regulations prescribed by the President.

"(b) In all cases, departmental review, where that review is required under this chapter, shall be carried out by the department that includes the armed force of which the accused is a member.

"§ 818. Art. 18. Jurisdiction of general courts-martial

"Subject to section 817 of this chapter (article 17), general courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when specifically authorized by this chapter. General courts-martial also have jurisdiction to try any person who by the law of war is subject to trial by a military tribunal and may adjudge any punishment permitted by the law of war. However, a general court-martial of the kind specified in section 816(1)(B) of this title (article 16(1)(B)) shall not have jurisdiction to try any person for any offense for which the death penalty may be adjudged unless the case has been previously referred to trial by the Prosecution Division as a noncapital case.

"§ 819. Art. 19. Jurisdiction of special courts-martial

"Subject to section 817 of this chapter (article 17), special courts-martial have jurisdiction to try persons subject to this chapter for any noncapital offense made punishable by this chapter and, under such regulations as the President may prescribe, for capital offenses. Special courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dishonorable discharge, dismissal, confinement for more than six months, hard labor without confinement for more than three months, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than six months. A bad-conduct discharge may not be adjudged unless a verbatim record of the proceedings and testimony has been made.

"§ 820. Art. 20. (Omitted)

"§ 821. Art. 21. Jurisdiction of courts-martial not exclusive

"The provisions of this chapter conferring jurisdiction upon courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war

may be tried by military commissions, provost courts, or other military tribunals.

"SUBCHAPTER V.—COMPOSITION OF COURTS-MARTIAL

"Sec. Art.

"822. 22. Who may convene courts-martial.

"823. 23. (Omitted.)

"824. 24. (Omitted.)

"825. 25. Who may serve on courts-martial juries.

"826. 26. Military judges.

"827. 27. Detail of trial counsel and defense counsel.

"828. 28. (Omitted.)

"829. 29. Absent and additional members.

"§ 822. Art. 22. Who may convene courts-martial.

"Courts-martial may be convened by the Chief of the Administration Division of the Regional Command or his designee within that division.

"§ 823. Art. 23. (Omitted.)

"§ 824. Art. 24. (Omitted.)

"§ 825. Art. 25. Who may serve on courts-martial.

"(a) Any member of the armed forces who has served on active duty for one year or more is eligible to serve on general and special courts-martial juries for the trial of persons who may lawfully be brought before such court for trial.

"(b) Members of a general or special court-martial jury shall be selected on a random basis from among all those eligible persons permanently stationed within the geographical limits of the Regional Command convening the court-martial unless the Secretary concerned prescribes by regulation the selection of jurors from geographical areas smaller than the limits of the Regional Command. Any such regulation shall be consistent with the principle of randomness. The selection of jurors shall, to the maximum extent practicable, follow the procedure prescribed for the selection of federal juries.

"(c) No member of an armed force is eligible to serve as a juror when he is the accuser, a witness, or has acted as an investigating officer or as counsel in the same or a related case.

"§ 826. Art. 26. Military judges

"(a) The Judicial Division of the appropriate Courts-Martial Command shall assign at least two military judges to each Regional Command for a period not less than six months. A military judge shall preside over each court-martial referred to the Judicial Division for trial by the Prosecution Division of the Regional Command. He shall—

"(1) rule finally on all matters of law,

"(2) rule finally on all motions, and

"(3) except as otherwise provided in this chapter, decide all other questions raised at the trial of the accused.

In any case referred to him for trial, the military judge shall impose sentence on the accused and shall have authority to suspend, vacate a suspension, or remit any such sentence.

"(b) A military judge may issue all writs necessary or appropriate in aid of his jurisdiction and agreeable to the usages and principles of law.

"(c) No person other than the Judge Advocate General or his designee within the Judicial Division of the Courts-Martial Command of the armed force of which any military judge is a member shall prepare or review any report concerning the effectiveness, fitness or efficiency of such military judge.

"(d) A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court or a member of the bar of the highest court of a State and who is certified to be qualified for duty as a military judge by the Judge Advocate General of the armed force of which such military judge is a member.

"(e) No person is eligible to act as a military judge in a case if he is the accuser

or a witness or has acted as investigating officer or a counsel in the same or a related case.

"(f) The military judge of a court-martial may not consult with the members of the jury except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the jury.

"§ 827. Art. 27. Detail of trial counsel and defense counsel

"(a) For each general and special court-martial, the Chief of the Prosecution Division of the Regional Command or his designee within that division shall detail a prosecutor, and the Chief of the Defense Division of the Regional Command or his designee within that division shall detail a defense counsel, and such assistants as the Chiefs or their designees shall deem appropriate. No person who has acted as investigative officer, military judge, or court member in any case may act later as prosecutor, assistant prosecutor, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

"(b) Each prosecutor or defense counsel detailed for court-martial—

"(1) must be a judge advocate of the Army, Navy, Air Force, or Marine Corps or a law specialist of the Coast Guard, and must be a member of the bar of a Federal court or of the highest court of a State; and

"(2) must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.

"§ 828. Art. 28. (Omitted.)

"§ 829. Art. 29. Absent and additional members

"(a) No juror may be absent or excused after the court has been assembled for the trial of the accused except for physical disability or as a result of a challenge or by order of the military judge for good cause.

"(b) A general court-martial shall be composed of seven regular jurors and at least one alternate juror, selected pursuant to section 825 of this chapter. If any regular juror of a court-martial is absent, he shall be permanently replaced by an alternate juror, providing that the alternate juror had been present at all previous open sessions of the court-martial. If a seven-member quorum cannot be maintained pursuant to this article, a mistrial shall be declared, and the case shall be returned to the Prosecution Division of the Regional Command for such further proceedings as it may deem appropriate.

"(c) A special court-martial shall be composed of three regular jurors and at least one alternate juror selected pursuant to section 825 of this chapter. If any regular juror of a special court-martial is absent, he shall be permanently replaced by an alternate juror, providing that the alternate juror had been present at all previous open sessions of the court-martial. If a three-juror quorum cannot be maintained pursuant to this article, a mistrial shall be declared, and the case shall be returned to the Prosecution Division or the Regional Command for such further proceedings as it may deem appropriate.

"(d) If the military judge of a court-martial is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of section 816 (1)(B) or (2)(B) of this title (article 16 (1)(B) or (2)(B)), after the assignment of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation

thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides, but in the absence of the jurors.

"Subchapter VI.—Pre-Trial Procedure

"Sec. Art.

"830. 30. Charges and specifications.

"831. 31. Compulsory self-incrimination prohibited.

"832. 32. Initial appearance; preliminary examination.

"833. 33. Forwarding of charges.

"834. 34. Conforming the charges to the evidence.

"835. 35. Time of trial.

"§ 830. Art. 30. Charges and specifications.

"Charges and specifications shall be preferred in writing by the Chief of the Prosecution Division of the Regional Command or his designee within that division, if he has reasonable cause to believe that an offense has been committed by the person to be charged.

"(1) Any person may refer to the Prosecution Division of the Regional Command any matter for the purpose of investigation or prosecution.

"(2) The Chief of the Prosecution Division of the Regional Command or his designee within that division may, on his own initiative, cause any matter to be investigated with a view toward prosecution. Investigations with a view toward prosecution may be coordinated between the Prosecution Division of the Regional Command and any authorized investigative body.

"§ 831. Art. 31. Compulsory self-incrimination prohibited

"(a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

"(b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

"(c) No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

"(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

"§ 832. Art. 32. Initial Appearance; preliminary examination

"(a) Within 24 hours after any person is arrested under the authority of this chapter, or within 24 hours after charges are preferred against any person under the authority of this chapter, whichever event occurs first, the accused person shall be taken before a military judge authorized by the Judicial Division of the appropriate Court-Martial Command to commit persons charged with offenses under this chapter. Any statement made by an accused person held in violation of this article shall be inadmissible in a trial by court-martial unless objection to such statement in affirmatively waived by the accused person at trial.

"(b) Any person not charged with an offense punishable by this chapter within 24 hours after his arrest under the authority of this chapter shall be forthwith released until such time as charges are preferred.

"(c) The military judge shall inform the accused of the charges against him, of his right to be represented by a civilian lawyer if provided by him, or a military lawyer of

his own selection if such lawyer is reasonably available, or by a lawyer detailed by the Defense Division of the Regional Command, and of his right to have a preliminary examination. The military judge shall also inform the accused that he is not required to make a statement and that any statement made by him may be used against him. The military judge shall allow the accused reasonable time and opportunity to consult counsel and shall admit the accused to bail, in accordance with regulations prescribed by the Secretary concerned, or may impose such restriction or confinement of the accused in lieu of bail as he determines necessary reasonably to insure the presence of the accused for trial.

"(d) Under the proceedings provided for in this section the accused shall not be called upon to plead. If the military judge determines that a specification does not state an offense punishable by this chapter, he shall dismiss the specification without prejudice. If the accused waives preliminary examination, the military judge shall forthwith refer the case to the Prosecution Division of the Regional Command for such further proceedings as it deems appropriate. If the accused does not waive preliminary examination, the military judge shall hear the evidence within a reasonable time. The accused may cross-examine witnesses against him, discover the evidence against him, and may introduce evidence in his own behalf. If from the evidence it appears to the military judge that there is probable cause to believe that an offense under this chapter has been committed and that the accused has committed it, the military judge shall forthwith hold him to answer in a court-martial; otherwise the military judge shall release him. The military judge shall admit the accused to bail in accordance with regulations prescribed by the Secretary concerned or may order such restriction or confinement on the accused in lieu of bail as he determines necessary reasonably to insure the presence of the accused for trial. Denial of bail may be appealed as an interlocutory matter to the Court of Military Review. After concluding the proceeding the military judge shall transmit all papers in the proceeding his findings, and any bail taken by him to the Prosecution Division of the Regional Command.

"§ 833. Art. 33. Forwarding of charges

"(a) When any person has been charged with an offense under this chapter the charges against such person shall be forwarded by the military judge to the Prosecution Division of the Regional Command together with a summarized record of the preliminary examination, if one was held, and other allied papers, within eight days after the conclusion of the preliminary examination if one was held, or within five days after the initial appearance if preliminary examination was waived, or else the charges shall be dismissed. A copy of the charges shall also be furnished to the accused. The Chief of the Prosecution Division or his designee within that division shall determine whether there is sufficient evidence to bring the accused to trial on such charges and whether such charges should be referred to a general or special court-martial for trial.

"(b) In any case in which the Prosecution Division determines that there is sufficient evidence to convict any person of the charges brought against him, it shall refer the case to trial by the appropriate level court-martial and shall promptly notify the Administration, Judicial, and Defense Divisions of the Regional Command, in addition to the accused and his civilian counsel, if any. The Administration Division shall convene a court-martial pursuant to section 833 of this chapter as soon as practicable thereafter.

"§ 834. Art. 34. Conforming the charges to the evidence

"If the charges or specifications are not formally correct or do not conform to the substance of the evidence presented at the preliminary examination, if one was held, or in the allied papers, formal corrections, and such changes in the charges and specifications are needed to make them conform to the evidence may be made by the Prosecution Division of the Regional Command, provided that the changes do not either change the nature of the offense charged or increase the severity of the punishment.

"§ 835. Art. 35. Time of trial

"In time of peace no person may, against his objection, be brought to trial or be required to participate by himself or counsel in a session called by the military judge under section 839(a) of this title (article 39(a)), in a general court-martial case within a period of five days after the initial appearance or in a special court-martial within a period of three days after the initial appearance.

"Subchapter VII.—Trial Procedure

"Sec. Art.

- "836. 36. President may prescribe rules.
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"§ 836. Art. 36. President may prescribe rules

"(a) The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter.

"(b) All rules and regulations made under this article shall be uniform insofar as practicable and shall be reported to Congress.

"§ 837. Art. 37. Unlawfully influencing action of court

"(a) No person subject to this chapter may censure, reprimand, or admonish the jury or any member thereof, military judge, or counsel in a court-martial, with respect to the findings or sentence adjudged, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case. The foregoing provisions of the subsection shall not apply with respect to (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of

courts-martial, of (2) to statements and instructions given in open court by the military judge or counsel.

"(b) In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces or in determining whether a member of the armed forces should be retained on active duty, no person subject to this chapter may, in preparing any such report (1) consider or evaluate the performance of duty of any such juror, as a juror, or (2) give a less favorable rating or evaluation of any member of the armed forces because of the zeal with which such member, as counsel, represented any accused before a court-martial, appellate tribunal, or related proceeding.

"§ 838. Art. 38. Duties of prosecutor and defense counsel

"(a) The prosecutor of a general or special court-martial shall prosecute in the name of the United States and shall be responsible for supervising the Administration Division of the Regional Command in its preparation of the record of the proceedings. All records of trial shall be prepared as expeditiously as possible.

"(b) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel, if provided by him, or by military counsel of his own selection if reasonably available, or by counsel assigned and detailed by the Defense Division of the Regional Command. Should the accused have counsel of his own selection, the defense counsel and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the military judge.

"(c) In every court-martial proceeding, the military defense counsel may, at any time, at government expense, seek such collateral relief as he deems necessary to protect the rights of the accused in any court having jurisdiction to grant such relief. In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

"(d) An assistant prosecutor of a general court-martial may, under the direction of the prosecutor or when he is qualified to be a prosecutor as required by section 827 of this title (article 27), perform any duty imposed by law, regulation, or the custom of the service upon the prosecutor of the court. An assistant prosecutor of a special court-martial may perform any duty of the prosecutor.

"(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 827 of this title (article 27), perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

"§ 839. Art. 39. Sessions

"(a) At any time after the case has been referred for trial by a general or special court-martial pursuant to section 833 of this chapter, the military judge may, subject to section 835 of this title (article 35),

"(1) hear and determine motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty, including motions to suppress evidence;

"(2) hear and rule upon any matter which

may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the jurors;

"(3) hold the arraignment and receive the pleas of the accused; and

"(4) perform any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 836 of this title (article 36) and which does not require the presence of the jurors.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and the prosecutor and shall be made a part of the record.

"(b) When the jurors of a court-martial deliberate or vote, only the regular jurors may be present. Alternate jurors shall be excused by the military judge prior to deliberation. All other proceedings, including any consultation of the jurors with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the prosecutor, and the military judge.

"§ 839A. Art. 39A. Discovery

"(a) At any session convened pursuant to section 839 of this chapter, and, for good cause shown, at trial, the military judge shall, upon a motion of the accused, order the prosecutor to divulge to the accused, and where necessary to permit the accused to inspect, copy, or photograph:

"(1) any statement, written or recorded, verbatim or otherwise made by the accused relevant to the offense charged which is in the possession, custody, or control of the government, the existence of which is known or may become known to the prosecutor by the exercise of due diligence;

"(2) the substance of any oral statement made by the accused either before or after arrest which the prosecutor intends to offer into evidence at trial;

"(3) written or recorded statements, or the substance of an oral statement made by a co-accused either before or after arrest, which the prosecutor intends to offer into evidence at trial;

"(4) the prior military criminal record, if any, as is then available to the prosecutor, of the accused, of any co-accused, or of any person the prosecutor intends to call as his witness at trial;

"(5) the names and current addresses, if known, together with any relevant prior statement of all persons, civilian or military, whom the prosecutor intends to call as prosecution witnesses at trial;

"(6) the military personnel records (field 201 file) of all persons selected as prospective jurors, if such a selection has been made at the time of the session; if such selection has not been made at the time of the session,

"(7) the report of any nonjudicial or quasi-judicial investigation conducted by the service concerned relevant to the offense charged unless the military judge finds that such a disclosure would be inimical to the national security;

"(8) the results and reports of any physical or mental examinations, or of scientific tests or experiments, made in connection with the case, within the possession, custody, or control of the prosecutor, the existence of which is known to the prosecutor, or which may become known by the exercise of due diligence; and

"(9) the report of the military judge made pursuant to section 832 of this chapter, if any, and all exhibits and testimony appended thereto.

"(b) At any session convened pursuant to section 839 of this chapter, and, for good cause shown, at trial, the military judge may, upon a motion of the accused, order the prosecutor to permit the accused to inspect, copy or photograph books, papers, docu-

ments, tangible objects, buildings or places or copies or portions thereof, which are within the possession, custody or control of the government, upon a showing of materiality to the preparation of the defense, and that the request is reasonable. If the relief requested hereunder is granted, the military judge may, upon motion of the prosecutor, condition his order by requiring the accused to permit the government to inspect, copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof which the accused intends to introduce into evidence at trial, which are related to the discovery sought by the accused and which are within his possession, custody or control, upon a showing of materiality to the preparation of the government's case and that the request is reasonable.

"(c) Notwithstanding any other provisions of this Article, the prosecutor shall disclose to the accused, as soon as it is discovered, all material, exculpatory evidence actually known to the prosecutor, whether or not a request for such evidence has been made by the accused.

"(d) Except as provided in subsections (a) and (c), the discovery or inspection is not authorized of reports, memoranda, or other internal government documents made by government agents in connection with the investigation or prosecution of the case, or of statements made by government witnesses or prospective government witnesses to agents of the government except as provided in 18 U.S.C. section 3500 (1964). Except as to scientific and medical reports, nothing in this article shall be construed as authorizing the discovery or inspection of reports, memoranda, or other internal defense documents made by the accused, his counsel or agent in connection with the investigation or defense of the case, or of statements made by the accused, or by actual or prospective government or defense witnesses to the accused, his agents or counsel.

"(e) The military judge granting relief under this article shall if necessary specify the time, place, and manner of making the discovery and inspection permitted, and may prescribe such terms and conditions as are just.

"(f) Except for good cause shown, only one motion for discovery, specifying all relief sought under this article, may be made during any criminal proceeding.

"(g) Whenever discovery is ordered or required under this article, a continuing duty to disclose exists, and whenever a party discovers additional material previously requested or ordered which is subject to discovery or inspection, he shall promptly notify the other party or his counsel and the military judge of the existence of such additional material. In the event that either party fails to comply with this article or with an order issued pursuant to this Article, the military judge may grant a continuance or prohibit the party from introducing into evidence the material not disclosed, or it may enter such other order, including dismissal of all charges with prejudice, as it deems just under the circumstances.

"(h) Upon a sufficient showing by either party the military judge may at any time order that discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate.

"(i) The military judge may at any time, upon motion of the accused, direct the filing of a bill of particulars, which bill may be amended at any time subject to such conditions as justice requires.

"§ 840. Art. 40. Continuances

"The military judge may, for reasonable cause, grant a continuance to any party for such time, and as often as may appear to be just, at any time after a case has been referred to trial pursuant to section 833.

"§ 841. Art. 41. Challenges

"(a) The military judge and jurors of a general or special court-martial may be challenged by the accused or the prosecutor for cause stated to the court. The military judge, shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the prosecutor shall ordinarily be presented and decided before those by the accused are offered.

"(b) Each accused and the prosecutor are each entitled to one peremptory challenge at any special court-martial trial if a bad conduct discharge may not be adjudged by the court at the trial; and each accused and the prosecutor are each entitled to three peremptory challenges at any special court-martial trial if a bad conduct discharge may be adjudged. Each accused and the prosecutor are each entitled to six peremptory challenges at any general court-martial; except that each shall be entitled to ten peremptory challenges if the death penalty may be adjudged. The military judge detailed to any court-martial trial may not be challenged except for cause.

"§ 842. Art. 42. Oaths

"(a) Before performing their respective duties, military judges, jurors, prosecutors, assistant prosecutors, defense counsel, assistant defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken once for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary concerned.

"(b) Each witness before a court-martial shall be examined under oath.

"§ 843. Art. 43. Statute of limitations

"(a) A person charged with desertion or absence without leave in time of war, formally declared by Congress, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

"(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919-932 of this title (articles 119-132) is not liable to be tried by court-martial if the offense was committed more than three years before charges are preferred pursuant to section 830 of this title.

"(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the charges are preferred pursuant to section 830 of this title, or before the imposition of punishment under section 815 of this title.

"(d) Periods in which the accused was absent from territory in which the United States has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

"(e) For an offense the trial of which in time of war, formally declared by Congress, is certified to the President by the Secretary concerned to be detrimental to the prosecution of the war or is inimical to the national security, the period of limitation prescribed in this article is extended to six months after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

"(f) When the United States is at war, as formally declared by Congress, the running of any statute of limitations applicable to any offense under this chapter—

"(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not;

"(2) committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States; or

"(3) committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency; is suspended until three after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

"§ 844. Art. 44. Former jeopardy

"(a) (1) No person may, without his consent, be tried a second time for the same offense.

"(2) No person may be tried by court-martial for any offense if he has been tried for substantially the same offense in any State court or in any court of the United States; and no person may be tried for any offense in any State court or any court of the United States if he has been tried for substantially the same offense by court-martial.

"(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

"(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the military judge or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article.

"§ 845. Art. 45. Pleas of the accused

"(a) If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

"(b) A plea of guilty by the accused may not be received to any charge or specification alleging an offense for which the death penalty may be adjudged. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge a finding of guilty of the charge or specification may be entered immediately. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

"§ 846. Art. 46. Opportunity to obtain witnesses and other evidence; search and seizure

"(a) The prosecutor, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe. Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be the same as that which courts of the United States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Territories, Commonwealths, and possessions. All requests to compel witnesses to appear and testify and to compel the production of other evidence shall be submitted to the military judge. Subpoenas shall be signed by a military judge, and shall be issued upon a showing by either party that the witness or evidence is necessary to

an adequate prosecution or defense. A refusal by a military judge to issue a subpoena shall be appealable as an interlocutory matter to the Court of Military Review of the service concerned.

"(b) (1) The authority to issue orders to conduct searches and seizures of persons and property subject to the provisions of this chapter in connection with any offense prohibited by this chapter may be exercised only by military judges in accordance with regulations promulgated by the President.

"(2) No search or seizure of persons or property shall be ordered by any military judge except in writing upon probable cause supported by written affidavits or sworn testimony given before him and recorded verbatim, and particularly describing the person or place to be searched or the person or thing to be seized.

"(3) No other search or seizure is authorized, except as may be necessary to protect the life of a person making an arrest under the authority of this chapter, or to prevent the destruction of evidence.

"§ 847. Art. 47. Refusal to appear or testify

"(a) Any person not subject to this chapter who—

"(1) has been duly subpoenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board;

"(2) has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the courts of the United States; and

"(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;

is guilty of an offense against the United States.

"(b) Any person who commits an offense in subsection (a) shall be tried on information in a United States district court or in a court of original criminal jurisdiction in any of the Territories, Commonwealths, or possessions of the United States, and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be punished by a fine of not more than \$500, or imprisonment for not more than six months, or both.

"(c) The United States attorney or the officer prosecuting for the United States in any such court of original criminal jurisdiction shall, upon the certification of the facts to him by the military judge, commission, court of inquiry, or board, file an information against and prosecute any person violating this article.

"(d) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

"§ 848. Art. 48. Contempts.

"(a) A provost court or military commission may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

"(b) A military judge of a court-martial shall have power to punish by fine or imprisonment, at his discretion, such contempt of his authority, and none other, as—

"(1) misbehavior of any person in his presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of the counsel of the court-martial or the jurors, in their official transactions; and

"(3) disobedience or resistance to the lawful writ, process, order, rule, decree, or command of the military judge.

"(c) Punishment under this section may not exceed confinement at hard labor for

30 days, or a fine of \$100, or both.

"§ 849. Art. 49. Depositions

"(a) At any time after charges have been preferred as provided in section 830 of this chapter, any party may take oral or written depositions unless a military judge forbids it for good cause.

"(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

"(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the United States or by the laws of the place where the deposition is taken to administer oaths.

"(d) A duly authenticated deposition taken upon reasonable notice to the other parties so far as otherwise admissible under the rules of evidence, may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or military board, if it appears—

"(1) that the witness is a civilian and resides or is beyond the State, Territory, Commonwealth, or District of Columbia in which the court, commission, or board is ordered to sit, or beyond 100 miles from the place of trial or hearing;

"(2) that the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

"(3) that the present whereabouts of the witness is unknown.

"(e) Subject to subsection (d), testimony by deposition may be presented by the defense in capital cases.

"(f) Subject to subsection (d), a deposition may be read in evidence in any case in which the death penalty is authorized but is not mandatory, whenever the Chief of the prosecution division of the Regional Command or his designee within that division directs that the case be treated as not capital, and in such a case a sentence of death may not be adjudged by the court-martial.

"§ 850. Art. 50. Admissibility of records of courts of inquiry

"(a) In any case not capital and not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial or military commission if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

"(b) Such testimony may be read in evidence only by the defense in capital cases or cases extending to the dismissal of a commissioned officer.

"(c) Such testimony may also be read in evidence before a court of inquiry or a military board.

"§ 851. Art. 51. Voting and rulings

"(e) Voting by jurors in a general or special court-martial on the findings shall be by secret written ballot. The junior juror shall count the votes. The count shall be checked by the senior juror, who shall forthwith announce the result of the ballot to the other jurors.

"(b) The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question is final and constitutes the ruling of the court. However, the military judge may change his ruling at any time during the trial. The military judge of any court-martial

shall have authority, on motion of the accused or on his own motion, to order the entry of judgment of acquittal of any charge or specification against the accused after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such charge or specification.

"(c) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the jurors as to the elements of the offenses, the law applicable to any defenses raised by the evidence, and any other material issues, and charge them:

"(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

"(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

"(3) that, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

"(4) that the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the United States.

"(d) Subsections (a), (b), and (c) do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

"§ 852. Art. 52. Number of votes required

"(a) (1) No person may be convicted of an offense for which the death penalty or confinement at hard labor for life is made mandatory by law, except by the concurrence of all the jurors of the court-martial present at the time the vote is taken.

"(2) No person may be convicted of any other offense, except as provided in section 845(b) of this title (article 45(b)) or by the concurrence of two-thirds of the jurors present at the time the vote is taken.

"(b) No person may be sentenced to suffer death for an offense in this chapter expressly marked punishable by death except upon the recommendation of all the jurors of the court-martial. Such recommendation shall not be binding on the military judge.

"(c) All other questions to be decided by the jurors of a general or special court-martial shall be determined by a majority vote, but a determination to reconsider a finding of guilty may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for the finding.

"§ 853. Art. 53. Jury to announce action

The senior juror shall announce the finding of the court-martial to the parties as soon as determined.

"§ 854. Art. 54. Record of trial

"(a) Each court-martial shall keep a separate and verbatim record of the proceedings of each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the prosecutor or by that of a juror if the prosecutor is unable to authenticate it by reason of his death, disability, or absence. In a court-martial consisting of only a military judge the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a juror under this subsection. If the proceedings have resulted in an acquittal of all charges and specifications the record need not be ver-

batim, but shall contain such matters as may be prescribed by regulations of the President.

"(b) A copy of the record of the proceedings of each court-martial shall be given to the accused as soon as it is authenticated.

"SUBCHAPTER VIII.—SENTENCES

"Sec. Art.

"855. 55. Cruel and unusual punished prohibited.

"856. 56. Maximum limits.

"857. 57. Effective date of sentences.

"858. 58. Execution of confinement.

"858a. 58a. Sentences: reduction in enlisted grade upon approval.

"§ 855. Art. 55. Cruel and unusual punishments prohibited

"Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any military judge or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

"§ 856. Art. 56. Maximum limits

"The punishment which a military judge may direct for an offense may not exceed such limits as the President may prescribe for that offense.

"§ 857. Art. 57. Effective date of sentences

"(a) Whenever a sentence of a military judge as lawfully adjudged includes a forfeiture of pay or allowances in addition to confinement not suspended or deferred, the forfeiture may apply, if the military judge so designates to pay or allowances becoming due on or after the date the sentence is adjudged, or any other subsequent date designated by the military judge. No forfeiture may extend to any pay or allowances accrued before such date.

"(b) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the military judge, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement. Any period during which the accused is held in confinement before or during trial shall be deducted from any period of confinement to which the accused is sentenced, unless the confinement of the accused during such period was imposed pursuant to the sentence of a previous court-martial trial. Such deduction shall be made by the commanding officer of the confinement facility wherein the accused's confinement is served.

"(c) All other sentences of courts-martial are effective on the date ordered executed.

"(d) On application by an accused who is under sentence to confinement that has not been ordered executed, the military judge detailed to the trial of the accused may defer service of the sentence to confinement. Deferment shall be granted unless it affirmatively appears likely that the accused would flee to avoid confinement or would be a danger to the military or civilian community. Denial of deferment shall be accompanied by a written statement signed by the military judge detailing his reasons for such denial. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time for good cause by the military judge who granted it. A denial of the application of an accused for deferment of service of sentence pending appeal of his conviction may be appealed by the accused, as an interlocutory matter, to the Court of Military Review.

"§ 858. Art. 58. Execution of confinement

"(a) Under such instructions as the Secretary concerned may prescribe, a sentence of confinement adjudged by a military judge or other military tribunal, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execu-

tion by confinement in any place of confinement under the control of any of the armed forces or in any penal or correctional institution under the control of the United States, or which the United States may be allowed to use. Persons so confined in a penal or correctional institution not under the control of one of the armed forces are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, Territory, District of Columbia, or place in which the institution is situated.

"(b) The omission of the words 'hard labor' from any sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment. Persons confined either before or after trial in penal or correctional institutions under control of the armed forces, or confined in any other facility under the control of the armed forces, shall be permitted to participate in work, regular physical exercise, and rehabilitation programs whenever facilities for such purposes will permit.

"§ 858a. Art. 58a. Sentences: reduction in enlisted grade upon approval

"(a) Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a court-martial sentence of an enlisted member in a pay grade above E-1, that includes—

"(1) a dishonorable or bad-conduct discharge;

"(2) confinement; or

"(3) hard labor without confinement; reduces that member to pay grade E-1, effective on the date the sentence is ordered executed.

"(b) If the sentence of a member who is reduced in pay grade under subsection (a) is set aside or disapproved, or, as finally approved, does not include any punishment named in subsection (a) (1), or (3), the rights and privileges of which he was deprived because of that reduction shall be restored to him and he is entitled to the pay and allowances to which he would have been entitled, for the period the reduction was in effect, had he not been so reduced.

"SUBCHAPTER IX.—REVIEW OF COURTS-MARTIAL

"Sec. Art.

"859. 59. Error or law; lesser included offense.

"860. 60. (Omitted.)

"861. 61. (Omitted.)

"862. 62. (Omitted.)

"863. 63. Rehearings.

"864. 64. (Omitted.)

"865. 65. (Omitted.)

"866. 66. Review by Court of Military Review.

"867. 67. Review by Court of Military Appeals.

"868. 68. (Omitted.)

"869. 69. Review in the Office of the Judge Advocate General.

"870. 70. Appellate counsel.

"871. 71. Execution of sentence; suspension of sentence.

"872. 72. Vacation of suspension.

"873. 73. Petition for a new trial.

"874. 74. Remission and suspension.

"875. 75. Restoration.

"876. 76. Finality of proceedings, findings and sentences.

"§ 859. Art. 59. Error of law; lesser included offense

"(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

"(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of

the finding as includes a lesser included offense.

"§ 860. Art. 60. (Omitted)

"§ 861. Art. 61. (Omitted)

"§ 862. Art. 62. (Omitted)

"(a) If the Judge Advocate General or his designee, the Court of Military Review, or the Court of Military Appeals, disapproves the findings and sentence of a court-martial, the Chief of the Prosecution Division of the Regional Command in which the accused was originally tried may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. If the findings and sentence are disapproved and a rehearing is not ordered, he shall dismiss the charges.

"(b) Each rehearing shall take place before a court-martial composed of jurors who did not participate in the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

"§ 864. Art. 64. (Omitted)

"§ 865. Art. 65. (Omitted)

"§ 866. Art. 66. Review by Court of Military Review

"(a) There is established in each service a Court of Military Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges, appointed by the Judge Advocate General of the service concerned. Each Court of Military Review shall be located for administrative purposes in the Office of the Judge Advocate General of the service concerned, but shall be otherwise independent of all other military command and control with respect to the performance of its judicial function. For the purpose of reviewing court-martial cases, the court may sit in panels or as a whole in accordance with rules prescribed under subsection (f). Appellate military judges who are assigned to a Court of Military Review may be commissioned officers or civilians, each of whom must be a member of a bar of a Federal court or of the highest court of a State. The Judge Advocate General shall designate one of the appellate military judges as chief judge. The chief judge shall determine on which panels of the court the appellate judge assigned to the court will serve and which military judge assigned to the court will act as the senior judge on each panel.

"(b) The Administrative Division of the Regional Command within which the accused was tried shall refer to a Court of Military Review the record in every case of trial by court-martial in which the sentence extends to death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad-conduct discharge or confinement for one year or more.

"(c) In a case referred to it, the Court of Military Review may affirm only such findings of guilty and the sentence or such part or amount of the sentence as it finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, it may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

"(d) If the Court of Military Review sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

"(e) The Court of Military Review shall prescribe rules of procedure for practice before it, and shall establish rules for the qualification of attorneys admitted to its bar.

"(f) No judge of a Court of Military Review shall be required, or on his own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other judge of the same or another Court of Military Review, an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces if qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces, or in determining whether a member of the armed forces shall be retained on active duty.

"(g) No judge of a Court of Military Review shall be eligible to review the record of any trial if such judge served as military judge, juror, defense counsel, or prosecutor of such trial.

"(h) Judges of a Court of Military Review shall be deemed military judges for the purpose of section 836(a)(2) of this chapter.

"§ 867. Art. 67. Review by the Court of Military Appeals

"(a) (1) There is a United States Court of Military Appeals established under article I of the Constitution of the United States and located for administrative purposes only in the Department of Defense. The court consists of nine judges appointed from civil life by the President, by and with the advice and consent of the Senate, for a term of fifteen years. The terms of office of all successors of the judges serving on the effective date of this Act shall expire fifteen years after the expiration of the terms for which their predecessors were appointed, but any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor. Not more than five of the judges of the court may be appointed from the same political party, nor is any person eligible for appointment to the court who is not a member of the bar of a Federal court or the highest court of a State. Each judge is entitled to the same salary and travel allowances as are, and from time to time may be, provided for judges of the United States Court of Appeals, and is eligible for reappointment. The President shall designate from time to time one of the judges to act as chief judge. The chief judge of the court shall have precedence and preside at any session which he attends. The other judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. The court may prescribe its own rules of procedure and determine the number of judges required to constitute a quorum. A vacancy in the court does not impair the right of the remaining judges to exercise the powers of the court.

"(2) Judges of the United States Court of Military Appeals may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, or for mental or physical disability, but for no other cause.

"(3) If a judge of the United States Court of Military Appeals is temporarily unable to perform his duties because of illness or other disability, the President may designate a judge of the United States Court of Appeals for the District of Columbia to fill the office for the period of disability.

"(4) Any judge of the United States Court of Military Appeals who is receiving retired pay may become a senior judge, may occupy offices in a Federal building, may be provided with a staff assistant whose compensation shall not exceed the rate prescribed for GS-9 in the General Schedule under section 5332 of title 5, and, with his consent, may be called upon by the chief judge of said court to per-

form judicial duties with said court for any period or periods specified by such chief judge. A senior judge who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a judge.

"(b) The Court of Military Appeals shall review the record in—

"(1) all cases in which the sentence, as affirmed by a Court of Military Review, extends to death;

"(2) all cases reviewed by a Court of Military Review which the Judge Advocate General orders sent to the Court of Military Appeals for review; and

"(3) all cases reviewed by a Court of Military Review in which, upon petition of the accused and on good cause shown, the Court of Military Appeals has granted a review.

"(c) The accused has 30 days from the time when he is notified of the decision of a Court of Military Review to petition the Court of Military Appeals for review. The Court shall act upon such a petition within 30 days after issue is joined by appellate defense and government counsel.

"(d) In any case reviewed by it, the Court of Military Appeals may act only with respect to the findings and sentence as affirmed or set aside as incorrect in law by the Court of Military Review. In a case which the Judge Advocate General orders sent to the Court of Military Appeals, that action need be taken only with respect to the issues raised by him. In a case reviewed upon petition of the accused, that action need be taken only with respect to issues specified in the grant of review. The Court of Military Appeals shall take action only with respect to matters of law.

"(e) If the Court of Military Appeals sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

"(f) After it has acted on a case, the Court of Military Appeals may return the record to the Court of Military Review for further review in accordance with the decision of the court. Otherwise, unless there is to be further action by the President or the Secretary concerned, the Judge Advocate General shall take action in accordance with that decision. If the court has ordered a rehearing, but the Judge Advocate General or his designee within the court-martial command finds a rehearing impracticable, he may dismiss the charges.

"(g) The Court of Military Appeals and the Judge Advocate General shall meet annually to make the comprehensive survey of the operation of this chapter and report to the Secretary of Defense, the Secretaries of the military departments and the Secretary of Transportation the number and status of pending cases and any other matters considered appropriate.

"(h) Whenever the court determines it necessary to expedite the business of the Court, the Court may authorize the hearing and determination of cases by separate divisions, each consisting of three judges. Such divisions shall sit at the times and places and hear the cases assigned as the Court directs. In all cases decided by a three judge division, a rehearing before the Court en banc may be ordered by a majority of the judges of the Court who are in regular active service.

"§ 868. Art. 68. (Omitted)

"§ 869. Art. 69. Review in the Office of the Judge Advocate General

"Every record of trial by special or general court-martial, in which there has been a finding of guilty and a sentence, the appellate review of which is not otherwise provided for by section 866 of this chapter (article 66), shall be examined by the Judge Ad-

vocate General, or his designee. The Judge Advocate General, or his designee, may set aside the findings and sentence in any case and may in any such case, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the Judge Advocate General, or his designee, sets aside the findings and sentence and does not order a rehearing, he should order that the charges be dismissed. If the Judge Advocate General, or his designee, so directs the record of trial in any such case shall be reviewed by a Court of Military Review in accordance with section 866 of this title (article 66), but in that event there shall be no further review by the Court of Military Appeals, either by petition of the accused or by certification of the Judge Advocate General. Notwithstanding section 876 of this title (article 76) the findings or sentence, or both, in a court-martial case which has been finally reviewed, but has not been reviewed by a Court of Military Review may be vacated or modified, in whole or in part, by the Judge Advocate General on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused.

“§ 870. Art. 70. Appellate counsel

“(a) The Judge Advocate General shall detail in his office one or more commissioned officers as appellate Government counsel, and one or more commissioned officers as appellate defense counsel, who are qualified under section 827(b)(1) of this title (article 27(b)(1)).

“(b) Appellate Government counsel shall represent the United States or any other respondent before the Court of Military Review or the Court of Military Appeals when directed to do so by the Judge Advocate General.

“(c) Appellate defense counsel shall represent the accused before the Court of Military Review or the Court of Military Appeals in extraordinary pleadings, interlocutory and direct appeals:

“(1) when he is requested to do so by the accused;

“(2) when the United States or any respondent is represented by counsel; or

“(3) when the Judge Advocate General has certified a case to the Court of Military Appeals.

“(d) The accused has the right to be represented before the Court of Military Appeals or the Court of Military Review by civilian counsel if provided by him.

“(e) Appellate defense counsel may seek relief in any court, at government expense, if he deems such relief appropriate to safeguard the rights of an accused.

“§ 871. Art. 71. Execution of sentence; suspension of sentence

“(a) No court-martial sentence extending to death may be executed until approved by the President. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him, except a death sentence.

“(b) No sentence extending to the dismissal of a commissioned officer, cadet, or midshipman may be executed until approved by the Secretary concerned, or such Under Secretary or Assistant Secretary as may be designated by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of any part of the sentence as approved by him. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

“(c) No sentence which includes, unsuspended, a dishonorable or bad-conduct discharge, or confinement for one year or more,

may be executed until affirmed by a Court of Military Review and, in cases reviewed by it, the Court of Military Appeals.

“(d) All other court-martial sentences, unless suspended or deferred, may be ordered executed by the Chief of the Prosecution Division of the Regional Command within which the accused was tried.

“(e) In cases reviewed by the Court of Military Review, no sentence may be ordered executed until 30 days have elapsed from the date the decision of that court was personally served on the accused.

“(f) A death sentence may not be suspended.

“§ 872. Art. 72. Vacation of suspension

“(a) Before the vacation of the suspension of any court-martial sentence, a military judge shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

“(b) The record of the hearing and the decision of the military judge who conducted the hearing shall be sent to the Prosecution Division of the Regional Command for further action. If the suspension is vacated by the military judge, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in section 871(c) of this title (article 71(3)). The vacation of the suspension of a dismissal is not effective until approved by the Secretary concerned.

“(c) The suspension of any other sentence may be vacated by a military judge pursuant to such regulations as the Secretary concerned may promulgate.

“§ 873. Art. 73. Petition for a new trial

“At any time within two years after affirmation of a court-martial sentence by the Court of Military Review, or if review by the court was not held, by the Judge Advocate General or his designee, the accused may petition the Judge Advocate General for a new trial on the grounds of newly discovered evidence or fraud on the court. If the accused's case is pending before a Court of Military Review or before the Court of Military Appeals, the Judge Advocate General shall refer the petition to the appropriate court for action. Otherwise the Judge Advocate General shall act upon the petition.

“§ 874. Art. 74. Remission and suspension.

“(a) The Secretary concerned and, when designated by him, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the President.

“(b) The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

“§ 875. Art. 75. Restoration

“(a) Under such regulations as the President may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

“(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

“(c) If a previously executed sentence of dismissal is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned

officer dismissed by that sentence may be reappointed by the President alone to such commissioned grade and with such rank as in the opinion of the President that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

“§ 876. Art. 76. Finality of proceedings, findings, and sentences

“The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon a petition for a new trial as provided in section 873 of this title (article 73) and to action by the Secretary concerned as provided in section 874 of this title (article 74), and the authority of the President.

“§ 938. Art. 138. Complaints of wrongs

“Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the Judge Advocate General of the armed force of which the officer against whom it is made is a member. The Judge Advocate General shall examine the complaint and is authorized to take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon.”

Sec. 3. Chapter 81 of title 28 of the United States Code is amended by adding at the end thereof the following section:

“§ 1259. Court of Military Appeals; certiorari
“Cases in the United States Court of Military Appeals may be reviewed by the Supreme Court by writ of certiorari.”

Sec. 4. (a) There is hereby established a special committee to be composed of the judges of the United States Court of Military Appeals the Judge Advocate General of the Armed Forces, the General Counsel of the Department of Transportation, and three civilian members to be appointed by the President. The committee shall conduct a thorough study with respect to—

(1) the table of maximum punishments prescribed by the President for offenses punishable under chapter 47 of title 10, United States Code, with a view to (A) recommending improvements therein, (B) identifying and recommending corrective actions for apparent inequities in such table, and (C) recommending the establishment of subcategories of offenses, where appropriate, based upon differences in degree of seriousness of the offenses;

(2) the advisability of legislation which would limit the authority of the President to alter or suspend the table of maximum punishments as to particular geographical areas and to suspend the table with respect to particular offenses;

(3) the desirability of transferring to the district courts of the United States jurisdiction of certain cases involving desertion and other unauthorized absences from the armed forces;

(4) further means of improving and elimi-

nating undue delays in the appellate process of military justice; and

(5) appropriate action in the case of any prisoner who has completed serving his sentence prior to the completion of appellate review of his case.

(b) The Committee shall submit a written report of the results of its study to the President and to the Congress, together with such recommendations as it deems appropriate, not later than one year after the date of enactment of this Act.

SEC. 5. The provisions of this Act shall become effective on the first day of the twelfth calendar month following the month in which this Act is enacted, except that section 4 shall become effective upon enactment.

By Mr. PROXMIRE:

S. 1129. A bill to improve and reform the foreign military assistance program of the United States. Referred to the Committee on Foreign Relations.

Mr. PROXMIRE. Mr. President, I introduce today the Foreign Military Assistance Reform Act of 1971. As chairman of the Subcommittee on Foreign Operations of the Senate Appropriations Committee, which has jurisdiction over many aspects of the foreign aid program, I hope that these reforms may be acted on in this session of the Congress.

REMOVES RESPONSIBILITY FROM DEFENSE DEPARTMENT

The purpose of this bill is to cut back and reshape our foreign military aid program. It puts the foreign military aid program back under the Secretary of State where it belongs.

It places the responsibility to authorize funds back under the Senate Foreign Relations Committee and the House Foreign Affairs Committee who should be the chief congressional watchdogs over foreign policy.

The bill removes from the Secretary of Defense the primary responsibility for determining and procuring foreign military aid, the supervision of its use, and its allocation and delivery, and places that responsibility squarely on the Secretary of State.

When President Kennedy came into office, he placed responsibility for the administration of American foreign policy abroad in the hands of the Ambassador in each country. But when the Vietnam buildup came, we shifted much of the control of military aid to the military services. This should now be rectified. Once again, American foreign policy should be run by the civilian agency charged with it rather than by the military.

PHASE OUT SERVICE FUNDED AID

Under the bill, the present \$2.5 billion military aid grant programs for Vietnam, Laos, and Thailand, now run by the Army, Navy, and Air Force, are phased out. The remaining military aid grant program under the Secretary of State—the grant MAP program—would be converted to a sales and credit sales program. Instead of forcing free military aid upon friendly countries, they would have to make the hard choice whether they wanted to buy the military equipment or not.

In my view, these reforms would represent an historic shift in the control over and nature of our foreign military aid

programs. Such a shift away from the military and into civilian hands is long overdue.

NEED FOR REFORM IS CLEAR

The need for such a shift was clearly shown in the hearings held in January by the Joint Economic Committee's Subcommittee on Economy in Government.

At the present time, the military aid program is unmanaged and out of control. It is fractionalized and scattered between and among a dozen or more departments and agencies. No one even appears to know how much we spend. While the military budget gives a total of \$1.1 billion and the AID budget a total of \$1.7 billion for military aid, the actual total for all programs lies somewhere between \$4.8 and \$7 billion.

The problem is made more difficult because the details of amounts granted annually to individual countries are stamped secret on grounds that to make them public might embarrass the receiving nation.

In addition, some programs are authorized by legislative committees and funded by direct appropriations. In others, such as the food-for-peace program or through the sale of excess and surplus supplies, hundreds of millions of dollars in military stores are supplied free or at bargain prices under general authority and without direct appropriation.

But, in many cases, the amounts are no real bargain. Poor and developing countries have had free military supplies thrust upon them which they would never buy under the discipline of payment and budgetary controls. The cost of maintaining weapons or training the forces to use them has drawn desperately needed funds from programs to feed, clothe, and house the poor.

To bring some discipline and reform to these overlapping programs, which now have conflicting goals and confusing results, several things should be done. In addition to placing all military aid under a single department and shifting the existing military grant programs to cash or credit sales, funds should be authorized and appropriated directly, not hidden and spent secretly. Country by country amounts should be declassified. The excess supply, surplus ship, and credit sales programs should all be placed on a businesslike basis.

A MORAL ISSUE

These reforms are needed not merely to bring some order to the administrative organization charts of the U.S. Government and not simply to save money, although I think it would save, in my view, hundreds of millions—indeed, billions—of dollars a year. What we are talking about is war and peace. We are confronted with a moral problem and not a classroom exercise.

From \$4.5 to \$7 billion a year is now dispensed by way of military aid to foreign countries. Much of it is used to rain down death and destruction on men, women, and children in the hamlets and villages throughout Southeast Asia.

This is not merely a question of dull balance-of-payment statistics or of how much of the American taxpayer's money

is transferred to the exchequers and military inventories of nations throughout the world.

These funds are used to buy the massive technical instruments of war which are now pulverizing portions of Laos, Cambodia, and North Vietnam. It is proposed that in the future these funds be used in gigantic quantities to arm the South Vietnamese and others as we withdraw our own men from the conflict. All of this is going on while the citizens of this country remain relatively safe in their homes and their communities and it is being done at the moment with very little physical risk to ourselves. But tens of thousands of people abroad are suffering the consequences of these policies, and 40,000 Americans gave their lives in Vietnam as a result of them.

There is great division in the Nation over whether we should be doing what we are doing. Even if it is absolutely justified, no thinking person can welcome it when he contemplates the suffering it inflicts.

NO EXCUSE FOR MINDLESS ACTION

But to give foreign military aid mindlessly, without either knowing the total amounts or considering the consequences, is incredible. To shovel out billions of dollars in weapons of destruction without questioning the amounts or the purposes for which they are used is for the citizens of this country and the lawmakers of the land to abdicate their responsibilities and to cede power to the military which it should not be theirs to exercise except through the deliberate action of the people—and, I should say, the representatives of the people.

We have given arms to two or more countries which have been used to fight each other rather than to defend against some common enemy. Weapons have been used to undermine political democracy and to keep reactionary governments in power. And more often than not the decisions to do so have been made secretly and surreptitiously without proper questioning or debate as to whether they really defend the vital interests of the people of the United States or whether they do not in fact undermine our efforts for peace in the world.

Those are the issues which this bill is really attempting to bring to the fore.

In a world which is complex and difficult enough, and where the threat of nuclear extinction hangs over all of our heads, it could be suicidal to set events into motion through the unthinking exercise of power as is now often done through our foreign military aid programs.

The reform of these programs is long overdue. Reforms are needed not only to bring some order out of chaos but to make certain that they do not do more harm than good. They are needed even more if this Nation is to carry out the goals of Woodrow Wilson that in our policies abroad:

What we seek is the rule of law, based on the consent of the governed, and sustained by the organized opinion of mankind.

SPECIFIC PROVISION OF BILL

The Foreign Military Assistance Reform Act which I am introducing at-

tempts to carry out these principles through the following specific provisions:

PHASEOUT OF SERVICE FUNDED MILITARY AID

First. The present \$2.5 billion military aid program funded by the three military services would be phased out entirely over a 3-year period.

To do this, the bill authorizes an appropriation of an amount not to exceed \$470 million for fiscal year 1972. Superficially, this may appear to be larger than the existing authorization. It is, in fact, smaller for it reflects not only the regular authorization but the supplemental amounts as well. It reduces the total by one-third.

Authority for fiscal year 1973 is left undetermined by the bill.

Congress has yet to determine either the nature of or the amount of any aid going to the Vietnamization program under the Nixon doctrine. The bill does not anticipate the nature of that decision.

PROGRAMS UNDER SECRETARY OF STATE

Second. All remaining military assistance programs would be put under the responsibility of the Secretary of State.

This is done by providing that, after June 30, 1972, no military assistance shall be provided by the United States to any foreign country or international organization unless that assistance is authorized under the Foreign Assistance Act of 1961 or the Foreign Military Sales Act.

The bill also amends section 623 of the Foreign Assistance Act of 1961, relating to the responsibilities of the Secretary of Defense, by transferring to the Secretary of State the primary responsibility in the foreign military aid program for: First, the determination of end-item requirements; second, the procurement of military equipment; third, the supervision of end-item use by the recipient countries; fourth, the supervision of the training of foreign military personnel; fifth, the establishment of priorities in the procurement and delivery and allocation of military equipment; and sixth, the performance of any other function with respect to the furnishing of military assistance.

This provision would be effective on July 1, 1972, by which time our combat activities in South Vietnam should be wound down.

GRANTS CONVERTED TO SALES PROGRAMS

Third. Existing grant military assistance programs would be converted to sales or credit sales programs.

A possible exception to this generalization is the fact that supporting assistance, which is classified as economic rather than military aid, is often used in considerable part for indirect military purposes. Except for that gray area, the general principle is carried out.

COUNTRY AMOUNTS DECLASSIFIED

Fourth. The bill contains a direct prohibition against classifying the names of foreign countries and the amounts of military assistance intended to be provided to them each year.

This provision would make the country by country lists public information.

The present reason given for classifying the list: namely, that it might embarrass the countries if it were made public, makes no sense at all. If we followed such logic domestically, we would classify our entire military budget on the ground that to reveal that next year's estimate for the Pentagon is \$75 billion would embarrass the Joint Chiefs of Staff.

EXCESS ITEMS TO BE SOLD

Fifth. Excess and surplus military supplies could no longer be given away free or for a few cents on the dollar. A minimum of one-third of the acquisition cost of the articles would be required from the receiving country, except in the case of articles which are considered to be only of scrap value or in the case of motor vehicles.

In the case of scrap items, the country pays only for the scrap value but must agree to use them only for scrap. In the case of motor vehicles, the actual depreciated value of the vehicle would be charged.

The Comptroller General is required to make an annual report that excess defense articles are being provided in accordance with the act.

The funds received in payment by the U.S. Government would go into a fund which could be used to pay for American obligations in the country involved or to finance international education and cultural exchanges.

To prevent abuse of these funds and to insure accountability, the President is required to submit a semiannual report to the Committees on Appropriations of the House and Senate explaining, in detail, the expenditures of these currencies. The committees, under the bill, are to use this information when they determine the appropriations of the affected agency. For example, if the funds were used by the United States to pay for the expense of U.S. State Department personnel in India or Korea, the Appropriations Committees could then reduce the amount of funds needed by the State Department for such purposes by the amount drawn from the funds built up through the sale of excess or surplus military supplies.

This provision could result in considerable savings to the U.S. Government.

SALE OF OVERAGE SHIPS

Sixth. Receiving countries would be required to pay at least 25 percent of the acquisition cost for overage or surplus ships, plus the cost of rehabilitating and refitting them.

INTEREST RATE LEVEL

Seventh. The interest rate charged for military credit sales would be set at the Export-Import Bank interest rate for comparable programs.

CONTINGENCY FUND INCREASE

Eighth. To make certain that the President has adequate funds to help a friendly country in an emergency, the President's contingency fund is increased from \$30 to \$80 million. In addition, up to \$300 million of the Department of Defense stocks could be drawn down, subject to 20 days' notice to Congress and the subsequent reimbursement through appropriations, for emergency use. Sup-

porting assistance would also remain available for emergency uses also.

This should give the President adequate funds in a real emergency. In addition to these funds which the President could make available to friendly foreign countries in the case of an attack by an aggressor, the bill places no limitations not now in effect under the law or under the Constitution on the use of funds appropriated to the Department of Defense for American forces.

CREDIT SALES AUTHORIZATIONS

Ninth. In shifting existing grant military aid programs to sales or credit sales programs, the bill authorizes certain amounts now under the grant program for use for credit sales.

For fiscal year 1972, a sum of \$485 million is authorized for credit sales. This reflects the existing authorization for fiscal year 1971 of \$250 million, plus the \$235 million of the military grant aid program being phased out and shifted to the sales program.

In addition, the bill places a ceiling for credit sales and guarantees of \$340 million. Without such a ceiling, the total amounts of credit sales could greatly exceed the amount appropriated through the use of the guarantee authority.

INTERNATIONAL MILITARY ACTIVITIES

Tenth. In order to carry into practice the principle that American foreign policy should be under the Secretary of State and that funds should be authorized by those committees of Congress charged with the supervision of American foreign policy, the bill places the authority for international military headquarters funds and funds for military advisers in military assistance missions and military advisory groups in foreign countries under the Foreign Assistance Act of 1961.

The bill prohibits funds made available under other provisions of law to be used for these expenses.

OTHER REFORMS

Other reforms to the foreign military aid programs were included in a recent Proxmire-Mansfield-McGovern-Humphrey bill, which prohibited the use of food for peace funds for military purposes, and in the Case-Proxmire bill requiring a detailed annual public report on the specific kinds and amounts of foreign military aid going abroad.

Taken together, these reforms should bring our chaotic military aid program under control. By doing this, we can serve our real national interests, save the taxpayers billions of dollars, and help bring peace to a very unpeaceful world.

Mr. President, I send the bill to the desk and ask that it be appropriately referred; and ask unanimous consent that a copy of the bill and a summary of a section-by-section analysis of the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the bill will be received and appropriately referred; and, without objection, the section-by-section analysis and a copy of the bill will be printed in the RECORD.

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

S. 1129

A bill to improve and reform the foreign military assistance program of the United States

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 "Foreign Military Assistance Reform Act".

DECLARATION OF PURPOSE

SEC. 2. The Congress declares that it is the purpose of this Act to further and more effectively sustain the peace, security, and prosperity of the United States by providing for reforms in the foreign military assistance program of the United States. The Congress further declares that the following reforms are necessary to assist in achieving such purpose:

(1) placing primary responsibility, to the maximum extent practicable, for administering all foreign military assistance provided by the United States to foreign countries and international organizations under the Secretary of State;

(2) phasing out, over a period of three years, the foreign military assistance grant program; and

(3) increasing, over a period of three years, the authority to enter into military credit and guaranty sales by the amounts that the military assistance grant program is reduced;

(4) prohibiting the classification of the amounts of military assistance provided to foreign countries and international organizations;

(5) placing the authorizations for all foreign military assistance under the Foreign Assistance Act of 1961 and the Foreign Military Sales Act;

(6) revising the excess defense articles program;

(7) requiring that vessels and boats of the United States may only be sold and sold only at certain reasonable values;

(8) increasing the authorization of appropriations of the President's contingency fund;

(9) extending the authority of the President to supply defense articles from existing stocks of the Department of Defense; and

(10) requiring that rates of interest and fees paid under military credit and guaranty sales arrangements be the same as rates paid to the Export-Import Bank.

MILITARY ASSISTANCE INFORMATION

SEC. 3. Chapter 2 of part II of the Foreign Assistance Act, relating to military assistance, is amended by adding at the end thereof the following new section:

"SEC. 511. Military Assistance Information.—Notwithstanding any other provision of law, that portion of any record showing the name of any foreign country or international organization and the amount of military assistance intended to be provided, or that has been provided, by the United States to such country or organization for any fiscal year under this or any other law shall be made available to the public, and that portion of the record shall not be withheld from public disclosure by designating such record as classified information."

MILITARY ASSISTANCE AUTHORIZATIONS

SEC. 4. (a) Chapter 1 of part II of the Foreign Assistance Act of 1961, relating to military assistance policy, is amended by adding at the end thereof the following new section:

"SEC. 502A. Unified Military Assistance Authorizations.—After June 30, 1972, no military assistance shall be provided by the United States to any foreign country or international organization unless that assistance is authorized under this Act or the Foreign Military Sales Act."

(b) That portion of section 504 (a) of such Act which precedes the first proviso, relat-

ing to the military assistance authorization, is amended to read as follows: "(a) There is authorized to be appropriated to the President to carry out the purposes of this part not to exceed \$470,000,000 for the fiscal year 1972, and \$_____ for the fiscal year 1973."

(c) Section 506 (a) of such Act, relating to special authority, is amended to read as follows: "(a) During the fiscal years 1972 and 1973, the President may, if he determines it to be vital to the security of the United States, order defense articles from the stocks of the Department of Defense and defense services for the purposes of part II, subject to subsequent reimbursement therefor from subsequent appropriations available (1) through fiscal year 1973, for military assistance, and (2) after fiscal year 1973, for supporting assistance under section 402 of this Act and for the contingency fund under section 451 of this Act. The value of such orders under this subsection in each of the fiscal years 1972 and 1973 shall not exceed \$300,000,000. The President shall not exercise his authority under this section unless he, at least twenty days prior to the date he intends to exercise that authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise and the justification for, and the extent of, the exercise of such authority."

(d) Effective July 1, 1973—

(1) sections 503 (as amended by section 5 (b) of this Act) and 504 of such Act, relating to military assistance authorities, are repealed; and

(2) section 507 (a) of such Act, relating to restrictions on military aid to Latin America, is amended by striking out "of grant programs".

EXCESS DEFENSE ARTICLES

SEC. 5. (a) Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended by adding after section 511 of such Act (as added by section 3 of this Act) the following new sections:

"SEC. 512. Excess defense articles.—(a) The President is authorized to provide any excess defense article (other than a vessel or boat) to a foreign country if that country agrees—

"(1) to deposit in a special account established by the United States Government the following amounts of currency of that country:

"(A) in the case of any such article which that country considers to be only of scrap value to itself, the scrap value of that article;

"(B) in the case of any motor vehicle which is an excess defense article and which is not considered by that country to be only of scrap value to it, the depreciated value, but in no event shall the depreciated value be less than the scrap value of the vehicle; and

"(C) in the case of any other excess defense article, the value of the article to that country, but in no event shall that value be less than one-third of the amount the United States paid at the time the excess defense article was acquired by the United States;

"(2) in the case of any excess defense article to be provided to that country which the country considers to be only of scrap value to itself, to use that article only for scrap; and

"(3) to make available to the United States Government, for use in paying obligations of the United States in that country and in financing international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961, such portion of the special account having the currencies of that country as may be determined, from

time to time, by the President to be necessary for any such use.

"(b) The President is authorized to provide by grant to international organizations excess defense articles (other than boats or vessels) which do not exceed \$_____ in their aggregate value in any fiscal year. For purposes of this subsection, "value" means the value to the international organization receiving the excess defense article, but in no event shall the value be less than one-third of the amount the United States paid at the time the excess defense article was acquired by the United States.

"(c) The Comptroller General of the United States shall review and determine annually whether excess defense articles are being provided in accordance with the provisions of subsection (a) (1) and (2) of this section. Not later than April 30 of each year, the Comptroller General shall make a report to the Congress on the results of his review and determination for the preceding calendar year.

"(d) (1) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section.

"(2) In order to provide the Committee on Appropriations of the Senate and House of Representatives with information to determine the amounts to be appropriated to any agency of the United States Government which expends currencies made available under this section, the President shall submit a semiannual report to such committees explaining each expenditure of currencies made available under this section, the agency expending the currencies, the foreign country which provided the currencies that were expended, and the value in United States dollars of the currencies so expended."

(b) Section 503 (a) of the Foreign Assistance Act of 1961, relating to general authority, is amended by inserting after "defense article" the following: "(other than an excess defense article)".

(c) Section 644 (m) of such Act, relating to definitions, is amended—

(1) by striking out clause (1); and

(2) by striking out "(2)" and "(3)" and inserting in lieu thereof "(1)" and "(2)", respectively.

(d) Section 8 of the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, is repealed.

CONTINGENCY FUND

SEC. 6. (a) Section 451 (a) of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended by striking out "for the fiscal year 1971 not to exceed \$30,000,000" and inserting in lieu thereof "for the fiscal year 1972 not to exceed \$80,000,000".

(b) Section 451 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Within seventy-two hours after the President has determined to exercise any special authority given him under this Act to use funds made available under this section to provide military assistance to any foreign country or international organization, the President shall report to the Congress on the name of the foreign country or international organization receiving the funds, how the funds are to be used by that country or organization, and the amount of the funds made available to that country or organization. Any report submitted to the Congress under this subsection shall be made available to the public and shall not be withheld from public disclosure by designating such report as classified information."

INTERNATIONAL MILITARY ACTIVITIES

SEC. 7. (a) Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended by adding after

section 512 of such Act (as added by section 5 of this Act) the following new sections:

"SEC. 513. INTERNATIONAL MILITARY HEADQUARTERS AUTHORIZATION.—There are authorized to be appropriated to the President for the fiscal year 1973 not to exceed \$_____ for the cost-sharing expenses of the United States Government's participation in international military headquarters and related agencies program (including such expenses for the North Atlantic Treaty Organization infrastructure) and for the support of those United States organizations performing functions related to such headquarters and program. No part of any funds made available under any other provision of law shall be used to pay such expenses.

"SEC. 514. Military Adviser Authorization.—There are authorized to be appropriated to the President for the fiscal year 1973 not to exceed \$_____ to reimburse the Department of Defense for all expenses of that Department (including the pay and allowances of United States Government personnel) in providing military assistance missions and military advisory groups to foreign countries. No part of any funds made available under any other provision of law shall be used to pay such expenses."

COORDINATING FOREIGN POLICY

Sec. 8. (a) Section 623 of the Foreign Assistance Act of 1961, relating to the Secretary of Defense, is amended to read as follows:

"Sec. 623. Military Assistance Responsibilities.—(a) In the case of assistance provided under part II of this Act—

"(1) the Secretary of Defense shall have primary responsibility for the movement and delivery of military end-items; and

"(2) the Secretary of State shall have the primary responsibility for—

"(A) the determination of military end-item requirements;

"(B) the procurement of military equipment in a manner which permits its integration with service programs;

"(C) the supervision of end-item use by the recipient countries;

"(D) the supervision of the training of foreign military personnel;

"(E) the establishment of priorities in the procurement, delivery, and allocation of military equipment; and

"(F) the performance of any other functions with respect to the furnishing of military assistance.

"(b) Whenever the Secretary of State considers it appropriate, he shall consult with the Secretary of Defense prior to exercising any responsibility given the Secretary of State under subsection (a) (2) of this section."

(b) The amendment made by subsection (a) of this section shall be effective July 1, 1972.

CHANGES IN COUNTRY ALLOCATION OF FOREIGN ASSISTANCE

Sec. 9. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 653. Changes in Allocation of Foreign Assistance.—(a) Effective July 1, 1972, not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 or 637), the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the total amount of funds under that law that the United States Government intends to provide to each. Notwithstanding any other provision of law, the United States Government shall not provide to any foreign country or international organization any funds under that law which is in excess of twenty per centum of the amount the President notified the Congress that the United

States Government intended to provide that country or organization under that law.

"(b) The provisions of this section shall not apply in the case of any law making continuing appropriations."

INTEREST RATES AND FEES ON FOREIGN MILITARY SALES

Sec. 10. (a) Section 23 of the Foreign Military Sales Act, relating to credit sales, is amended to read as follows:

"Sec. 23. Credit Sales.—The President is authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on terms requiring the payment to the United States Government in United States dollars of—

"(1) the value of such articles or services within a period not to exceed ten years after the delivery of such articles or the rendering of such services; and

"(2) interest, on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement, that the Export-Import Bank of the United States charges for obligations of similar purposes and comparable maturities."

(b) The last sentence of section 24(a) of such Act, relating to guaranties, is amended to read as follows: "Fees and premiums shall be charged for each such guaranty and shall be equal, as nearly as practicable, to the fees and premiums charged, at the time the President issues the guaranty under this section, by the Export-Import Bank of the United States for a comparable guaranty."

(c) Section 34 of such Act, relating to credit standards, is amended by striking out "The" and inserting in lieu thereof the following: "Except as otherwise provided in this Act, the".

VESSELS AND BOATS

Sec. 11. Chapter 2 of the Foreign Military Sales Act, relating to foreign military sales authorizations, is amended by adding at the end thereof the following new section:

"Sec. 25. Vessels and boats.—Effective July 1, 1972, any vessel or boat of the United States Government (including, but not limited to, any battleship, aircraft carrier, cruiser, destroyer, or submarine) shall only be provided to a friendly foreign country or international organization in accordance with the provisions of this Act. No vessel or boat shall be so provided until the Comptroller General of the United States has determined the value of the vessel and, if that country or organization is acquiring the vessel or boat as scrap, that the vessel or boat is only of scrap value to the acquiring country or organization and will only be used for scrap purposes. Any vessel or boat shall be valued by the Comptroller General—

"(1) in the case of a vessel or boat to be provided to a friendly foreign country or international organization as scrap, at not less than scrap value; and

"(2) in the case of any other vessel or boat to be provided, at not less than (A) twenty-five per centum of the amount the United States Government paid at the time the boat or vessel was acquired by the United States, and (B) any expenses of the United States Government in activating, rehabilitating, and outfitting (including repairs, alterations, and logistic support) the vessel or boat."

FOREIGN MILITARY SALES AUTHORIZATIONS

Sec. 12. Section 31 of the Foreign Military Sales Act, relating to authorization and aggregate ceilings on foreign military credit sales, is amended—

(1) by striking out of subsection (a) "not to exceed \$250,000,000 for each of the fiscal years 1970 and 1971" and inserting in lieu thereof "not to exceed \$485,000,000 for the

fiscal year 1972, not to exceed \$_____ for the fiscal year 1973, and not to exceed \$_____ for the fiscal year 1974"; and

(2) by striking out of subsection (b) "shall not exceed \$340,000,000 for each of the fiscal years 1970 and 1971" and inserting in lieu thereof "shall not exceed \$575,000,000 for the fiscal year 1972, \$_____ for the fiscal year 1973, and \$_____ for the fiscal year 1974".

SECTION-BY-SECTION ANALYSIS: FOREIGN MILITARY ASSISTANCE REFORM ACT

Purpose: To improve and reform the foreign military assistance program of the United States.

Section 2. Declaration of purpose.

The bill asserts that Congress declares the purpose of the Act is to further and more effectively sustain the peace, security, and prosperity of the United States by providing for reforms in the foreign military assistance program of the United States.

It declares the following reforms are necessary to assist in achieving such purpose.

(1) placing primary responsibility for administering all foreign military assistance provided by the United States to all foreign countries and international organizations under the Secretary of State, and

(2) phasing out, over a period of three years, the military assistance grant program.

In addition, it prohibits classifying the amounts of aid going to specific countries, provides that all funds must be authorized, requires partial payment in foreign currency for excess military articles, increases the President's contingency fund, provides that ships and boats shall be sold at not less than 25% of acquisition cost, except in the case of vessels sold for scrap.

Section 3. Military assistance information.

This section amends Chapter 2 of Part II of the Foreign Assistance Act relating to military assistance by requiring that the name and amounts of military assistance provided to foreign countries and international organizations shall be made available to the public.

Section 4. Military assistance authorizations.

(a) This section provides that after June 30, 1972, no military assistance shall be provided unless that assistance is authorized under this Act or the Foreign Military Sales Act.

The effect of this is to phase out the Service Funded Military Aid to Vietnam, Thailand and Laos now authorized under the military authorization bill.

(b) Authorizes military grant aid for fiscal 1972 at the phase out rate (based on the total military grant aid authorization for FY 1971) of one-third less funds per year.

It leaves open the amount, if any, of military aid that should be authorized for fiscal year 1973 to Vietnam, Laos and Thailand under any proposal for implementation of the Nixon Doctrine program.

(c) Provides Emergency Authority for the President, after 20 days notice to Congress, to draw down for use by friendly countries as much as \$300 million, subject to subsequent reimbursement, of defense articles from the stocks of the Department of Defense.

(d) As the authority for military grants would end on June 30, 1973, subsections (d) (1) and (2) repeal certain sections of the law affecting the military grant authority and program.

Section 5. Excess defense articles.

Tightens conditions under which excess defense articles may be provided to foreign countries and international organizations.

The foreign country must agree to set up a special account, established for the U.S. and pay into it in the currency of the country:

(1) for military items of scrap value, the scrap value of the article,

(2) for motor vehicles, the depreciated

value of that vehicle, but in no case less than the scrap value.

(3) for any other article, the value of that article, but in no event shall that value be less than one-third of the amount of the acquisition cost.

The country must agree to make such sums available to the United States Government to pay for obligations of the United States in that country and to finance international education and cultural exchange activities under the Mutual Educational and Cultural Exchange Act of 1971 which the President, from time to time determines to be necessary for such use. The President must make a semi-annual request to the Appropriations Committees on the detailed use of the funds in order that the Committees can use the information in determining the Appropriations to the Agencies concerned.

Section 5(b) authorizes grant of excess articles of International organizations. It provides for the Congress to place a ceiling on such grants. The value of the items is to be no less than one-third their acquisition cost.

Section 5(e) provides for an annual review by the Comptroller General to determine whether the excess articles are being provided according to the provisions of the section.

As these restrictions in Section 5 are tighter than those provisions of existing law, those provisions are repealed. Present limits on the granting of excess military items are \$100 million valued at not less than one-third of the acquisition cost of the articles.

Section 6. Contingency fund.

This section increases the amount of the President's contingency fund from \$300 million to \$80 million.

It also provides that within 72 hours after the President has exercised any special authority under the Act, he report to Congress the name of the country or international organization receiving the funds, how they are to be used, and the amount. It requires that such report not be classified.

As grants from the military services are phased out entirely, and as all other military aid is to be specifically authorized, shifted to credit sales, or, as in the case of excess supplies, more strictly controlled, there is need for some additional funds for the President to have available in an emergency.

Section 7. International military activities.

This section authorizes appropriations for the cost-sharing expenses of the United States Government in international organizations' military headquarters, and funds to reimburse the Defense Department for its costs in providing military assistance missions and military advisory groups to foreign countries.

Section 8. Coordinating foreign policy.

Section 8 amends the Foreign Assistance Act of 1961 to provide that the Secretary of State shall have the primary responsibility for a number of items which are now under the jurisdiction of the Secretary of Defense.

The Secretary of State is charged with the responsibility of determining military end-item requirements; procurement of military equipment to permit its integration with service programs; supervision of end-item use by the recipient countries; supervision of the training of foreign military personnel; establishment of priorities in the procurement, delivery and allocation of military equipment; and the performance of any other function with respect to furnishing of military assistance.

The Secretary of State is authorized to consult with the Secretary of Defense when the Secretary of State considers it appropriate.

The Secretary of Defense is given the primary responsibility for the movement and delivery of military end-items.

The purpose of this Section is to insure that the Secretary of State has the primary responsibility for both policy and operation of the military aid program.

Its effective date is July 1, 1972.

Section 9. Changes in country allocations of foreign assistance.

Section 9 provides that the President shall notify Congress, not later than 30 days after the enactment of appropriations to carry out the Foreign Assistance Act, of the amount of military aid he plans to furnish to each country and international organization and limits the President's authority to later change that sum to twenty per centum of the amount he notified Congress that the U.S. Government would provide.

Section 10. Interest rates and fees on foreign military sales.

This Section provides that credit sales must require the payment to the U.S. of the value of the articles sold within ten years of the sale, and that interest shall be at a rate equivalent to the Export-Import Bank rate for obligations of similar purposes and comparable maturities.

Fees and premiums shall be based on the same standard as interest rates.

Section 11. Vessels and boats.

This Section requires that any ships or boats provided to foreign countries by the U.S. Government be done only under authority of this Act.

The Comptroller General must determine the value of the vessel.

If the vessel is to be provided as scrap, the recipient country or organization must pay scrap value for it.

The Comptroller General, in that case, must determine that it is only of scrap value and will be used as scrap.

Any other vessel is to be provided at no less than 25% of acquisition cost to the United States, and the receiving country or organization must pay for any expense in activating, rehabilitating and outfitting the boat or vessel.

Section 12. Foreign military sales authorizations.

This Section strikes out the existing authorizations for foreign military credit sales, and authorizes for fiscal year 1972 a sum of \$485 million, which reflects the existing authorization for fiscal year 1971 (\$250 million) plus that portion of the military grant aid program being phased out and shifted to sales (\$235 million).

The amount in Section 2 places a ceiling on credit sales and guarantees if \$340 million. Without such a ceiling, the total amounts of credit sales could greatly exceed the amount appropriated, through use of the guarantee authority.

By Mr. HRUSKA (for himself and Mr. CURTIS):

S. 1130. A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

ESTABLISHMENT OF THE GEORGE W. NORRIS HOME AS A NATIONAL HISTORIC SITE

Mr. HRUSKA. Mr. President, today I am introducing, on behalf of my colleague from Nebraska (Mr. CURTIS) and myself, a bill providing for the National Park Service to acquire the George W. Norris Home in McCook, Nebr., and make of it a national historic site.

Senator Norris represented the State of Nebraska in this body for 30 years, from 1913 to 1943. Prior to that he served in the House for 10 years. Throughout his entire career he was a controversial

figure. It is now a long time ago, but I can remember clearly that in those days there were few in my State who did not have strong feelings about Senator Norris, either for or against.

Without question he was an authentic voice—probably its greatest single voice—of midwestern reform sentiment during the period of his career. Also, without question, he made his mark on the Nation and on our State of Nebraska. Nationally, he is perhaps best known as the father of the TVA, but in Nebraska he is more fondly remembered as a leader in the establishment of the Rural Electrification Administration.

Almost singlehandedly he authored an amendment to the U.S. Constitution which is still part of the supreme law of our land, changing the dates of our inaugurations and legislative sessions. He did likewise in leading his native State to a unicameral legislature, then and now a unique institution among American legislative bodies. Both of these achievements are a testament to the extraordinary determination of this man.

Mr. President, a good summary of the late Senator's life and achievements, together with a discussion of the Norris home and its status, is contained in the special report prepared by the National Park Service a few years ago at the time it was determined to designate the Norris home as a national historic landmark. The home is now available for acquisition by the Federal Government without cost. I ask unanimous consent that this report, which was written in 1967, may be printed in the RECORD at the conclusion of my remarks, and that the text of the bill likewise be printed.

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

SENATOR GEORGE WILLIAM NORRIS HOUSE,
NEBRASKA

Location: Red Willow County, 706 Norris Avenue, McCook.

Ownership: Mrs. John P. Robertson, 2737 Devonshire Place, N.W., Washington, D.C. 20008; Mrs. Marian Norris Nelson, 1870 Verdugo Knolls Drive, Glendale, California 91208; Mrs. Gertrude Norris Rath, 3554 Raymond Road, Kensington, Maryland 20795.

STATEMENT OF SIGNIFICANCE

George William Norris during his long Congressional career wrote and sponsored social and economic legislation that empowered the Federal Government to assume new and major responsibilities in promoting the national well-being. The Tennessee Valley Authority alone exemplifies the significance of Norris' legislative accomplishments. He lived in his McCook home throughout his career as a Federal legislator, and the house, which is privately owned, is in excellent condition.

HISTORY

Nebraska became Norris' home state by adoption. He was born on July 11, 1861, in Monroe County, Ohio, where he attended school. He subsequently matriculated at Baldwin University, Berea, Ohio, and later attended Northern Indiana Normal School, Valparaiso, Indiana. He also studied law there, and was admitted to the bar in 1883. Norris then went to the State of Washington, taught school for a term, and migrated to Nebraska, where he decided to settle. Before doing so, the young lawyer returned to the Buckeye State and taught school for some time. In 1885, he moved to Beaver City,

Nebraska, where he began a law practice. He married Pluma Langley in 1890 and they had three daughters, the birth of the third girl causing Mrs. Norris' death. Norris then married Ellie Leonard in July, 1903. Some time before that, in 1889 or 1900, Norris had settled in McCook.

Norris' political career began about the time he moved to McCook. He campaigned for the prosecuting attorney's office in Furnas County in 1890 and lost. Two years later he won. The voters then elected him as a judge of the Fourteenth Nebraska Judicial Circuit in 1895, and he served as such until 1902.

A Republican, Norris entered national politics in 1902, when his fellow citizens elected him to the House of Representatives. When he appeared in Washington, Norris espoused conservative opinions, but the longer he stayed in the capitol, the more liberal became his ideas. And he was re-elected as a representative for five consecutive terms. In 1910 he headed the successful struggle in the House to end the Speaker's dictatorial control over legislation. Two years later, Norris' growing liberalism prompted him to support the candidacy of Theodore Roosevelt, who had left the Republican party, for the presidency.

The 1912 campaign resulted in Roosevelt's defeat, and in Norris' election as a Senator. Still a nominal Republican, Norris, more than ever, labored for the benefit of the Nation and not for partisan benefit. He advocated the conservation of natural resources and opposed the efforts of private individuals to exploit the country's land and water riches. His apostasy of traditional Republican Beliefs is illustrated by his backing of Robert F. LaFollette in 1924; his campaigning for Alfred E. Smith, a Democrat, in 1928; and his endorsing Franklin Delano Roosevelt in 1932 and 1936. The final break with the Republican Party occurred in 1936. Norris then ran for the Senate as an independent and won.

Norris' legislative accomplishments prior to 1936 made the national welfare a Federal concern. In 1932 he and Fiorello La Guardia sponsored the Norris-La Guardia Act, often hailed as the Magna Carte of organized labor. The act supported the right of a worker to join a non-company union. In 1933 Norris triumphed in a struggle of over a decade's duration by the passage of an act establishing the Tennessee Valley Authority. The national accomplishments and international fame of the T.V.A. need no elaboration here. Another Norris victory in 1933 was the ratification of the Twentieth Amendment to the Constitution, which Norris had sponsored since 1922. The amendment provided that Congress would convene each year on January 3 and that a newly elected President would take office on January 20. After the President established the Rural Electrification Administration by Executive Order in 1935, Norris wrote the law that made the REA a permanent office. That office subsequently spurred farm electrification throughout the country.

Norris sought re-election in 1942, but suffered his first and only defeat in a contest for a Federal Congressional seat.

After leaving Washington, Norris retired to his home in McCook. There he labored on his autobiography, completing it just four weeks before his death on September 3, 1944. His personal account was entitled, *The Fighting Liberal; The Autobiography of George W. Norris*.

PRESENT CONDITION

Norris' house has been little changed since 1944. He purchased the two-story and cross-gabled building in 1899 and remodeled it in 1930-32. The house was stuccoed at that time. It contains eight rooms and has a full basement and an unfinished attic. The first floor has a small entrance hall with a stairway, a living room, a study, and an enclosed

sun room. The diningroom is now used as a bedroom and the kitchen has been modernized. On the second floor there is a large hall and three bedrooms, each with a full bath and closet. Most of the original furnishings, which date from various eras, are in the house. The house sits on a pleasant lot and there is a garage in the northeast corner of the grounds.

Mrs. Norris, the Senator's widow, lives in the house. She and her family plan to give the house to the Nebraska State Historical Society at sometime in the future.

Reference: Ray H. Mattison and Harry B. Robinson, "The Senator George Norris Home, McCook, Nebraska, A Preliminary Study," Unpublished report, Department of the Interior, National Park Service, Region Two Office, Omaha, Nebraska, August 1961.

S. 1130

A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, 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 in public ownership the historically significant property associated with the life of Senator George William Norris, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the land and interest in land, together with buildings and improvements thereon, located at, or in the vicinity of, 706 Norris Avenue, McCook, Nebraska, together with such other lands and interests in lands, including scenic easements, as the Secretary shall deem necessary for the administration of the area. The Secretary shall establish the George W. Norris Home National Historic Site by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands and interests in lands have been acquired for administration in accordance with the purposes of this Act.

Sec. 2. Pending establishment and thereafter, the Secretary of the Interior shall administer lands and interests in lands acquired for the George W. Norris Home National Historic Site in accordance with the Act approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), as amended.

Sec. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. CRANSTON:

S. 1132. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; and

S. 1133. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide assistance for the development of nonlethal weapons and police protection equipment, and for other purposes. Referred to the Committee on the Judiciary.

Mr. CRANSTON. Mr. President, I introduce, for appropriate reference, three amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

The first amendment will enable local police departments to buy their equipment at discount prices through State central purchasing agencies, a new procedure which I estimated would save medium- and small-sized cities some \$3 million a year.

The second amendment authorizes \$12 million for research and development of nonlethal weapons and protective equip-

ment for police, and subsidizes their purchase by local departments.

The third amendment creates a college fellowship program for 2,000 policemen and deputies over the next 2 years so they can take advanced training in law enforcement.

All three of these amendments stem from a survey of California law-enforcement officers I conducted last year.

Mass purchasing by police procurement centers will allow equipment purchases at the lowest market price. The savings can be passed on to local police departments.

No such central purchasing procedures now exist and each municipal police department buys its own equipment directly from manufacturers and suppliers often at high prices because of small quantity purchases.

Smaller police departments in California, for example, pay anywhere from 11 to 27 percent more than big city police pay for the same equipment.

These smaller departments pay more for their equipment because the administrative and sales cost must be spread over fewer items. In New York State, for example, the Syracuse police force paid \$3,500 a piece for 20 squad cars last year. The State ordered 600 of the same type car for its highway patrol and paid only \$2,200 a piece.

This is a deplorable waste of taxpayer money. That extra money should either have been spent in buying more necessary equipment, or put to good use on other essential city programs.

Central purchasing could have saved 110 smaller California cities some \$315,000 in 1969 when there was a total outlay of \$3,119,000 for police equipment statewide.

Only Los Angeles, San Diego, San Francisco, Long Beach, Oakland, San Jose, and Sacramento were able to buy in large enough quantities to get the lowest unit prices.

Cities the size of Fresno, Berkeley, and Santa Ana—100,000 to 250,000 population—paid an average of 11 percent more for the same equipment; cities the size of Vallejo, Bakersfield, and Santa Barbara—50,000 to 100,000—paid 16 percent more; and cities the size of Beverly Hills, Modesto, and Oceanside—25,000 to 50,000—paid an average of 27 percent more.

While there are no readily available figures on how much municipal police departments spend nationally each year, on the basis of California's population as a percent of the total population, I estimate \$30 million per year is spent for the purchase of police equipment such as squad cars, radios and uniforms.

If California's purchasing experience is duplicated throughout the country, central procurement could save the Nation's smaller cities \$3 million a year or more just in their law enforcement budget.

Central purchasing so far has been tried only at Dayton, Ohio, to serve police in a six-county area. This was set up only 6 months ago and though officials tell me they are already saving money, they are unable to estimate how much. Another local central purchasing experiment has been approved for the Pitts-

burgh, Pa., area, but has not yet gone into operation.

The second amendment I am introducing, provides for the research and development of nonlethal weapons and police protective equipment. Once this equipment is developed, the Federal Government will then help subsidize its purchases by State and local police departments.

The need to develop police protective equipment has been established by the tragic results of civil disturbances. Policemen attempting to control demonstrations have often been injured. Police protective equipment such as flak vests and helmets can help prevent these injuries. This amendment will help supply that needed equipment.

At the same time that we develop police protective equipment, we must develop and distribute nonlethal weapons. These weapons are needed to protect innocent bystanders from injury while our police are apprehending criminals. Nonlethal weapons also avoid the use of unnecessary force by police when they apprehend individuals who have apparently committed crimes.

The capacity of police to apprehend criminals will be improved by the development of nonlethal weapons. At present, police are sometimes unable to do their work effectively for fear of injuring innocent bystanders. Nonlethal weapons provide police with an additional alternative to avoid that dilemma.

The third amendment I am introducing establishes a fellowship program to enable police and deputies to go to college full time.

While 30,000 law-enforcement officers are now taking college courses on a part-time basis, only 382 officers have been able to take a leave of absence to study full time.

Police officers do not have sufficient resources to support themselves while studying full time. The current LEAA program does not provide these officers with a stipend to cover living costs while they are attending college.

The present alternative is either to drag out training time in part-time courses or for a man to overburden himself with a full load of credits while working full time. Neither alternative is satisfactory.

The program I am introducing today will avoid this unnecessary dilemma. It will provide 1,000 policemen each year with fellowships for full-time study in law-enforcement related areas. This training will help provide policemen with a better understanding of both the causes of crime, and the methods with which to prevent and detect crimes.

By Mr. THURMOND:

S. 1138. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide an optional exemption from coverage for individuals who have attained age 65. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, the bill I introduce today concerns itself with the employee who is also receiving social security—the individual 65 and over who, whether reluctant to retire or seeking ad-

ditional income, chooses to continue working.

In the United States today there are 20 million citizens 65 years of age and over. Many of them live on fixed incomes and are mercilessly confronted by increasing rental costs, medical expenditures, and the increasing expense of food, clothing, and transportation. In 1969, we found 4.8 million of these Americans living below the poverty margin. Yet 81 percent get along on their own. Over 3 million of America's population eligible to receive social security continue to be employed. Only 1 in 20 is confined to an institution.

Mr. President, our Nation showed great foresight in 1935 when the Social Security Act was passed, enabling its citizens to envision a secure retirement. When on August 14, 1935, Franklin Delano Roosevelt signed the act into being, he referred to social security by saying that its passage marked the end of a long struggle for protecting and enhancing human rights. Nonetheless, he went on to say that social security was "a cornerstone in a structure which is being built but is by no means complete." Provisions allowing for review and improvement showed foresight as well. The original act allowed for old age and unemployment insurance. In 1939, survivors insurance was added. In 1956, disability insurance was introduced. In 1965, medicare came into being.

Mr. President, this bill will provide for an optional social security exemption from coverage for individuals who have attained age 65. Those individuals who choose to be fully retired are collecting social security benefits and no longer paying toward this coverage. Besides losing some or all benefits consequent to employment, the older worker faces taxes past retirement age and continues to have amounts subtracted from his pay as social security deductions. In effect, this employee is paying a right-to-work tax unbeknown to those fully retired.

I should like to point out several important features of this bill which should be noted. First, exemption from this tax is made optional. A worker 65 or over who wishes to continue to pay social security tax in order to qualify for greater benefits in the future remains free to do so. Second, while employees on social security may choose exemption from this tax, employers are obligated to continue paying the tax even though their employee chooses exemption. This prevents an employer from having a financial incentive to encourage workers to choose the exemption or a similar incentive for preferential hiring of those who have chosen the exemption.

Mr. President, at a time when the elderly are clearly in need, we should do nothing to discourage the aged individual who is willing and able to work. Placing a disadvantage on personal initiative is contrary to our great American heritage. It is time that we focus our attention on the 3 million workers in this situation.

Mr. President, I send this bill to the desk, ask that it be appropriately referred, and that it be printed in the RECORD.

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

S. 1138

A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide an optional exemption from coverage for individuals who have attained age 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"SERVICE EXCLUDED UNDER ELECTION MADE BY INDIVIDUAL 65 YEARS OF AGE OR OVER

"(p) Notwithstanding the provisions of subsection (a), the term 'employment' shall not include any service with respect to which an election under section 3121(r) of the Internal Revenue Code of 1954 applies."

(b) Section 211(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) There shall be excluded any income (and related items) with respect to which an election under section 1402(l) of the Internal Revenue Code of 1954 applies."

Sec. 2. (a) (1) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—

(A) by striking out "and" at the end of paragraph (9);

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (10) the following new paragraph:

"(11) there shall be excluded any income (and related items) with respect to which an election under subsection (l) applies."

(2) Section 1402 of such Code (definitions relating to tax on self-employment income) is further amended by adding at the end thereof the following new subsection:

"(l) Election of Exemption by Individuals 65 Years of Age or Over.—

"(1) In general.—Any individual who at the close of his taxable year is 65 years of age or over may, at his option, in such manner and form and at such time as the Secretary or his delegate shall by regulations prescribe, elect to be exempt from the tax under section 1401 for such taxable year. An election made by an individual for any taxable year under this paragraph shall be irrevocable (and may not be subsequently changed by amendment of such individual's return for such year or otherwise).

"(2) Applicability of elections.—An election made by an individual under paragraph (1) shall apply with respect to all income derived during the taxable year for which it is made from every trade or business carried on by such individual (and with respect to all deductions attributable to each such trade or business and any distributive shares of income or loss therefrom), and shall be effective with respect to any payments of estimated tax for the taxable year under section 6153 which fall due after it is made.

"(3) Requirement of simultaneous election with respect to employment.—No election may be made for any taxable year under paragraph (1) by an individual who during such year performed service which constituted (or would but for an election under section 3121 (r) constitute) 'employment' for purposes of chapter 21 unless such individual also makes an election with respect to all such service under section 3121 (r);

and, under regulations prescribed by the Secretary or his delegate, the election under paragraph (1) shall also include or be accompanied by such an election under section 3121 (r)."

(b) Section 3121 of such Code (definitions under Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(r) Service Excluded Under Election Made by Individual 65 Years of Age or Over.—

"(1) In general.—For purposes of this chapter other than for purposes of the taxes imposed by section 3111, the term 'employment' shall not include any service with respect to which an election under paragraph (2) applies.

"(2) Election of exemption.—

"(A) In general.—Any individual who at the close of his taxable year (which shall be determined in the manner provided by section 211(e) of the Social Security Act) is 65 years of age or over may, at his option, in the manner provided in subparagraph (C), elect to be exempt from the tax under section 3101 for such taxable year. An election made by an individual for any taxable year under this paragraph shall be irrevocable (and may not be changed by amendment of such individual's return for such year or otherwise).

"(B) Applicability of election.—An election made by an individual under this paragraph shall apply with respect to all service performed by such individual during the taxable year for which it is made which would constitute 'employment' for purposes of this chapter but for this subsection.

"(C) Manner of election.—An election by an individual under this paragraph to be exempt from the tax under section 3101 for any taxable year may be made only by filing a claim (which must be included in or accompany an election made under section 1402(1)(1) in the case of an individual who is described in section 1402(1)(3)) for a special refund of such tax under section 6413(d), by means of a credit against the income tax on account thereof under section 31(b) for such taxable year or otherwise."

Sec. 3. (a) (1) Section 6413 of the Internal Revenue Code of 1954 (special rules applicable to certain employment taxes) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) Special Refunds Arising Out of Exemption Based on Age.—

"(1) In general.—If an employee described in section 3121(r)(2)(A) receives wages from one or more employers for services performed during the taxable year, such employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate).

"(2) NOTIFICATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate shall promptly notify the Secretary of Health, Education, and Welfare of each special refund allowed under this subsection."

(2) Section 6413(c) of such Code (relating to special refunds) is amended—

(A) by inserting "Based on Multiple Employment" after "Refunds" in the heading; and

(B) by inserting after "during such year" where it appears in clause (D) of paragraph (1) the following: "(after the application of section 3121(r)(1) in any case to which it applies)".

(b) Section 31(b) of such Code (relating to credit for special refunds of social security tax) is amended—

(1) by inserting "or 6413(d)" after "section 6413(c)" in paragraph (1); and

(2) by inserting after "to which paragraph

(1) applies" in paragraph (2) the following: "and which represents a special refund allowable under section 6413(c)".

(c) Section 205(c)(5)(F)(1) of the Social Security Act is amended by inserting after "information returns" the following: "elections made under sections 1042(1) and 3121(r) of the Internal Revenue Code of 1954."

Sec. 4. The amendments made by this Act shall apply only with respect to taxable years beginning after the date of the enactment of this Act.

By Mr. BAKER (for himself, Mr. HRUSKA, Mr. RANDOLPH, and Mr. TAFT):

S.J. Res. 66. A joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States; referred to the Committee on the Judiciary.

Mr. BAKER. Mr. President, I send to the desk on behalf of myself and Senators HRUSKA, RANDOLPH, and TAFT a joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States. I ask that it be appropriately referred.

Mr. President, one may recall that a little over 2 years ago, the late Senator Dirksen introduced this resolution in his typical unique style. He spoke of the marigold's rugged character which enables it to resist most insects as well as air pollution, but what impressed him the most and impresses me the most is the true beauty of the flower.

Although we have adopted the American eagle and the American flag to represent the strength and freedom of our land, we have no symbol that properly represents the vast beauty of this Nation. I feel that the American marigold could very appropriately be that symbol. It is a native American flower which grows in great profusion in all 50 States and yet it is not the official flower of any State.

As my good friend, David Burpee, of W. Atlee Burpee Seed Growers, has pointed out, the marigold is quickly and easily grown from seed packets which are readily available at most nurseries and hardware stores.

Therefore, in view of the fact that the United States is the only major free country in the world without a national floral emblem, I introduce this joint resolution, stating very simply that the American marigold—*Tagetes erecta*—shall be designated and shall be adopted as the national floral emblem of the United States, and that the President be requested to declare that fact by proclamation.

I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

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

S. J. RES. 66

Joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States.

Whereas the peoples of the world have from time immemorial adopted emblems—flags, birds, flowers—for their countries, representative of their national virtues; and

Whereas the people of the United States have similarly adopted emblems—the American flag and the American eagle—to represent the virtues of this country; and

Whereas each of the fifty sovereign States of the United States, in addition to its State flag has a floral emblem which it cherishes as its own; and

Whereas the United States is the only major "free" country in the world without a floral emblem; and

Whereas the American marigold represents the character of the United States more appropriately as an emblem than does any other flower in that it is an American native and native of nowhere else in the world; grown in abundance in the home gardens of every State in the Union yet not the floral emblem of any State in the Union; grown easily and quickly from seed; already acknowledged as a symbol of religious faith; a flower in its very appearance representing not just beauty but a rugged humility of character; and, like the American eagle and the American flag, an exclusively American emblem, unclaimed by any foreign nation: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the flower commonly known as the American marigold is hereby designated and adopted as the national floral emblem of the United States, and the President is requested to declare such fact by proclamation.

ADDITIONAL COSPONSORS OF BILLS

S. 34

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE) and the Senator from North Carolina (Mr. JORDAN) were added as cosponsors of S. 34, the Conquest of Cancer Act.

S. 582

At the request of Mr. HOLLINGS, the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. GURNEY), the Senator from Washington (Mr. JACKSON), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 582, a bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

S. 726 AND S. 727

At the request of Mr. MONDALE, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 726, the National Agricultural Bargaining Act of 1971, and S. 727, the National Agricultural Marketing Act of 1971.

S. 743

At the request of Mr. MCGOVERN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 743 designating the birthday of Martin Luther King, Jr., as a legal public holiday.

S. 859

At the request of Mr. HARTKE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 859 to improve programs of aid to the blind.

S. 973

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PASTORE), the Senator from Alaska (Mr. STEVENS),

the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 973, a bill to improve the unemployment insurance compensation system.

S. 1053

At the request of Mr. HOLLINGS, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor to S. 1053, a bill to authorize a program to develop and demonstrate low-cost means of preventing shoreline erosion.

S. 1121

At the request of Mr. KENNEDY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1121, the Campaign Financing and Lobbying Reform Act of 1971.

ADDITIONAL COSPONSOR OF A SENATE JOINT RESOLUTION

SENATE JOINT RESOLUTION 32

At the request of Mr. BAKER, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 32 proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 64

At the request of Mr. HARTKE, the Senator from Mississippi (Mr. EASTLAND), the Senator from Nevada (Mr. BIBLE), and the Senator from Utah (Mr. MOSS) were added as cosponsors of Senate Resolution 64, relating to the importation of heroin.

PROPOSED AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE—AMENDMENT

AMENDMENT NO. 12

Mr. MILLER submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate, which was ordered to lie on the table and to be printed.

ASSISTANCE TO STATE AND LOCAL COMMUNITIES IN PROVIDING NEEDED PUBLIC SERVICES—AMENDMENT

AMENDMENT NO. 13

VETERANS UNEMPLOYMENT—AMENDMENT TO

S. 31

Mr. MONDALE. Mr. President, unemployment continued in February at the unacceptable level of 5.4 million. Because of our appalling inability to deal with the problem of unemployed veterans I am submitting an amendment to S. 31.

We are all painfully aware that the present unemployment rate is too high. In some unfortunate areas unemploy-

ment has nearly reached crisis proportions. S. 31 seeks to ameliorate these conditions by providing temporary jobs in the public sector. In my opinion the hearings conducted on this bill have documented the need for this type of legislation many times over. I hope that the Congress will soon approve S. 31, the Emergency Employment Act, and send it to the President.

This amendment will help assure that the bill can attain one of its stated purposes, namely to help provide "expanded work opportunities * * * (for) persons who have recently been separated from military service."

Mr. President, it is a personal tragedy for an individual to be unable to find a job in order to support himself and his family. But when that individual has just spent 12 months or more risking his life in support of his country, being unemployed is an unconscionable injustice.

For the 3 months ending in January of this year the unemployment rate for males aged 20 to 29 was 7.5 percent. For that same period, veterans of the same age experienced an unemployment rate of 9.4 percent. Any number of factors could be put forward in an attempt to explain the difference, yet the fact remains that veterans suffer from unemployment at a rate that is more than 25 percent greater than their peers. Is this the best we can do for men who have served their country so well?

Not only is the situation bad, it seems to be getting worse. Unemployment for 20- to 29-year-old veterans during the 3 months ending in January of last year was only 5.1 percent, compared to the 9.4 percent for the same period this year. And on February 12, 1971, the Washington Post reported that during the last 3 months of 1970 unemployment for veterans aged 20 to 24 jumped from 6.4 to 10.8 percent. That is an increase of better than 1 percentage point per month.

For released veterans who are fortunate enough to secure employment, it takes on the average, nearly 2 months to find a job. The more we learn of the veterans' situation, the more grim the picture becomes. Still, we do not know as much about the employment circumstances of veterans as we should. For example, there is no information available about the unemployment of disabled veterans.

Although there are no official statistics on the unemployment of disabled veterans I know from having personally discussed this matter with individuals directly involved with the problem that disabled veterans have an extraordinarily difficult time finding employment. In other words, unemployment is high for veterans in general, but it is even higher for veterans who are disabled.

Mr. President, there are few situations more tragic than that of a man permanently maimed in the service of his country who is unable even to find a job to support himself. This national outrage has continued far too long. Therefore, I am asking that 10 percent of all moneys appropriated for S. 31 be used specifically to create jobs for veterans.

Mr. President, two very informative articles on this problem appeared just

this past weekend. The first, from Saturday's Washington Post, amplifies the statistics I have already cited, and describes the situation in the District of Columbia, which is even worse than it is for the Nation as a whole. The most alarming observation in the article is that veterans unemployment is up again in January.

The second article, by James Reston, appeared in yesterday's New York Times. Mr. Reston observes:

Seldom a speech is made here about the war without verbal tribute being paid to the men of the expeditionary force, and to the extraordinary sacrifices they have made under conditions unprecedented in the history of the armed forces.

But this does not really help the veterans. They need money and jobs, and the cost of providing them is likely to be far less in the long run than the cost of paying for the consequences of indifference.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. There being no objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. Mr. President, there is a good deal said these days about supporting our troops. Yet our concern for their welfare too often seems to stop when they leave the battlefield. No matter what our differences are about the war, we have a national obligation to do everything in our power to see our veterans settled back into civilian life with decent jobs. In light of what these men have done for their country, it is the least we can do.

EXHIBIT 1

[From the Washington Post, Mar. 6, 1971]

VIET VETERANS HAVE TOUGH TIME
LANDING JOBS HERE

(By Leon Dash)

Vietnam veterans are finding it increasingly difficult to find work in Washington, and people whose job it is to help them see no solution to the problem.

Nationwide, it is estimated that there are 321,000 unemployed veterans of Vietnam. District officials say 1,631 of the approximately 7,000 returned Vietnam veterans who live here are unemployed.

In addition, many other veterans have come here from across the nation looking for government jobs. Their number is unknown because they remain on the unemployment rolls of their home states.

Critics, in testimony before the City Council last week, said the District government and its major agency for veterans, the D.C. Veterans Affairs Administration, are not doing enough to help them. On all sides, there seems agreement that compared with veterans of other wars, very little is being done for the Vietnam returnee, possibly because the war itself is unpopular and the veteran is seldom welcomed back as a hero.

William Syphax, a veteran's employment representative for the Labor Department's District office, notes that government and private industry are cutting back on hiring, and other officials point out that many veterans are caught in the middle because "they lack skills."

Fred Z. Hetzel, deputy administrator of the D.C. Manpower Administration, said that although his office gives preference to Vietnam veterans, it was able to place only 587 veterans in jobs in 1970, after placing 789 the year before. In 1970, he noted, the number of applicants had doubled.

Hardest hit locally and across the nation are veterans in the 20-to-24 age group. As of January, 12.4 per cent of them were unemployed, up from 6.8 per cent a year ago.

"The number of veterans we're getting in here has increased almost 40 per cent in the last six months," James W. Bowie, director of the Veterans Assistance Center, said.

Wardell Mallory, a 21-year-old Vietnam veteran, is typical of many young men. He was discharged from the Army last October.

"When I got back, I couldn't find anything," he said, "so I got my old job back as a unit aide at Freedmen's (Hospital)." (By law, returning servicemen must be rehired by their former employers. But many went into the service directly from school and have no job to return to.)

A unit aide, Mallory explained, does general cleanup duties such as the sweeping of floors and the emptying of bedpans.

"I'm not satisfied with it, that's why I'm here."

On Feb. 25, Mallory was referred by the center to the Government Printing Office for on-the-job training. He is still waiting for word that he has been accepted.

"There is an additional problem beside lack of skills," says Walter Hundley, the only social worker at the center. "The veteran receives no mustering-out pay, so he jumps for the first job he can get."

When the center opened in 1968, there were five Labor Department job counselors there, but they have since been transferred back to Labor.

"It was an economy cutback," Bowie said.

Edward Dixon, director of veterans affairs for the Urban League, has charged the D.C. Veterans Affairs Administration with being a "hollow mockery of a service facility" and said it should be reorganized.

"That office is just behind the times," Dixon said in an interview.

The office originally was established in 1944 as an information agency for World War II veterans.

It now deals primarily with claims and does not even attempt to concern itself with the problems of today's veterans, Dixon said.

The Rev. Douglas Moore, an independent candidate for District delegate, recommended in Council hearings that A. Leo Anderson, director of the administration, be retired.

Moore, who is also chairman of the Black United Front, also recommended the reorganization of the agency. He said it should be more active in helping veterans get housing, jobs and education.

Moore also suggested that District veterans should get an automatic payment of \$250 to \$350 from the local government. (Eight states currently give cash bonuses to Vietnam veterans.)

Testifying before the Council on his department's \$146,236 budget request, Anderson said that of 8,742 veterans serviced by his office last year, approximately 35 per cent were Vietnam returnees.

Saying that his office "is not in the job placement business," he told a reporter that it had nevertheless made "150 job placements in the past seven months."

Mallory, the veteran at Freedmen's is bitter about the lack of employment opportunities.

"I knew it was going to be hard to find a job, but a veteran shouldn't be hassled like this. You know?"

[From the New York Times, Mar. 7, 1971]

A LAND FIT FOR HEROES?

(By James Reston)

WASHINGTON.—So the "boys," as we call them, are coming back from the war, but what are they coming back to? And what are they bringing back with them—what thoughts, what dreams, what habits?

It is easier to answer the first question than the second. They are coming back to a

divided country, which has five million unemployed and a dwindling market for unskilled labor; a fabulously rich country with a shortage of houses as well as jobs and a surplus of inflation and social tension—scarcely "a land fit for heroes."

We do not know what they are bringing back with them, but we know they are no longer "boys." They are men trained in violence and guerrilla warfare, many of them no doubt resentful of their contemporaries who stayed at home, many more brutalized by battle or corrupted by cheap strong dope, all of them expecting, and rightfully too, useful work and a decent life.

No doubt a majority of them, as in past wars, will slip back under the orderly and civilizing routine of work and family. General Westmoreland, for example, is persuaded that the discipline of Army life will prove to be a stronger and more lasting force than the brutality or the corruption.

Still, even if he is right, even if they are not a problem or a danger, they are surely a debt. At least on this we should be able to agree, regardless of our views on the war. It is not a debt that can await the slow return of "full employment" or "stable prices," both of which may be far down the road. Many of them are going to be mental casualties or even prisoners of war at home: restless, frustrated and out of work.

The Government of course, is conscious of all this. There is a demobilization program designed to ease the transition back to civilian life, hospital care for the wounded, educational assistance for the yearners, medical and psychiatric help for the dope addicts—even a careful security watch, just in case—but the sum of all this is pitifully small compared with the magnitude of the problem.

Lately there has been a lot of talk in Washington about priorities, allocation of resources, revenue sharing and local responsibility for local problems. The Congress is deeply divided on all these. The Senate has not even been able to agree on its own rules of procedure, let alone getting down to legislating on urgent questions of policy.

The returning veterans, however, are a special question, a first priority, an obvious test for revenue sharing and local responsibility, and they need Federal money and special local help much faster than they are getting it now.

What is happening in most cases, despite the help of veterans' organizations and Federal assistance, is that most of them are thrown in with the rest of the unemployed to seek jobs or welfare as best they can. During the autumn months of 1970, according to the latest figures, public welfare increased faster than ever before partly as a result of returning veterans, and the increase already threatens to drive welfare costs at least \$1.5 billion above the estimates in President Nixon's 1972 budget.

In explaining the steep rise in the nation's unemployed during the last year the Administration has "blamed" much of it on the reduction in the armed forces and the layoffs in factories working for the Pentagon, but very little has been said of the human plight of the returning veterans.

The politics of this problem are not an insuperable barrier. Few Federal legislators of whatever persuasion are prepared to vote against appropriations for veterans' jobs, even if this means financing public-service work under the states, cities, counties and municipalities of the country.

Meanwhile, much could be done by private employers in every community, if separate lists of local veterans were compiled and local committees were established to help employ the veterans as a first priority.

At the present time, the major complaint in Washington, both in the executive and the legislative branches of the Government, is that officials feel trapped in vast contro-

versies and cannot get action on new welfare housing or job-training projects.

On the conduct of the war, there is of course a bitter stalemate. On the conditions of a negotiated peace and on the future of Vietnam, Cambodia and Laos it is the same. But the problem of the veterans is not a major divisive issue. The debt and the danger are widely recognized, but somehow they have been shoved aside by the more dramatic political and economic arguments.

Seldom a speech is made here about the war without verbal tribute being paid to the men of the expeditionary force, and to the extraordinary sacrifices they have made under conditions unprecedented in the history of the armed forces.

But this does not really help the veterans. They need money and jobs, and the cost of providing them is likely to be far less in the long run than the cost of paying for the consequences of indifference.

NOTICE OF HEARINGS ON THE ADMINISTRATION ON AGING AND THE 1971 WHITE HOUSE CONFERENCE ON AGING

MR. EAGLETON. Mr. President, in 1965 the Congress unanimously enacted the Older Americans Act and welcomed the establishment of the U.S. Administration on Aging under the terms of that act.

In 1967 and again in 1969, Congress passed amendments to strengthen the Administration on Aging and give it new authority to build upon the Federal-State-local working relationship envisioned by the authors of the original legislation.

In every possible way, Congress has expressed its conviction that the Administration on Aging should be a vital contributing factor to the well-being of the 20 million Americans who are now 65 years and over and the many millions more who soon will be.

Now recent reorganizations and funding cutbacks proposed by this administration indicate that the Administration on Aging may be in serious trouble.

As chairman of the Subcommittee on Aging of the Senate Labor and Public Welfare Committee, I am directly concerned about the future of the Administration on Aging.

The Older Americans Act is scheduled to expire in 1972 unless Congress acts to extend it. Legislation for that purpose would be considered by the Subcommittee on Aging.

For these reasons, I believe it is essential that the appropriate committees undertake a review of the programs authorized by the Older Americans Act and an evaluation of the effectiveness of the Administration on Aging.

I am pleased to announce that the Subcommittee on Aging—in conjunction with the Senate Special Committee on Aging—will conduct hearings on the Administration on Aging and plans for the 1971 White House Conference on Aging on March 25, 29, and 30.

Senator CHURCH, chairman of the special committee, is making a similar announcement to the Senate today. As a member of his committee as well as chairman of the Subcommittee on Aging, I am especially pleased that we can cooperate in this effort. Both the investigative functions of the committee and the legislative functions of the subcom-

mittee can, I believe, be carried out efficiently in this manner, and I look forward to this unusual, but sensible means of joint action.

QUORUM CALL

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

Mr. STEVENS. Mr. President, will the Senator withhold that request?

Mr. BYRD of West Virginia. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

THE ALASKA PIPELINE

Mr. STEVENS. Mr. President, the subject of the Alaska pipeline has aroused a great deal of interest in the press and, I am sure, it will in the future.

The other day a Member of the other body introduced a report containing comments of the acting District Engineer of the Corps of Engineers from Anchorage and indicated that the comments were a great setback for the Alaska pipeline.

I think the comments have to be viewed in context.

I would like to try to clarify the situation which exists with reference to the Corps of Engineers and Department of Defense position on the environmental impact statement that has been prepared by the Department of the Interior.

Under the National Environmental Policy Act of 1969, the Department of the Interior has the assigned responsibility of preparing an impact statement under section 102 of that law and delivering it to the Council on Environmental Quality. In order to do so, it must prepare a draft and submit that draft to each of the departments and agencies of the Federal Government that would have any concern with the proposed project. It did this and sent to the Department of Defense a request for its comments on the draft of the environmental statement for the trans-Alaska pipeline.

The Department of Defense has prepared and sent to the Department of Interior its comments on the proposed environmental impact statement.

I view them as being very well reasoned and necessary comments. I think it is very important to note that the department said, in the letter of March 3 to Mr. Jack Horton, the special assistant in the Department of the Interior coordinating the draft of this report:

Our experts believe that a hot-oil pipeline can be built structurally sound if the strict controls, as proposed in the document, are enforced.

I also note that in the report the Department of Defense states:

While the stipulations do establish excellent guidelines for design, construction, and operating considerations, we believe it will be absolutely necessary for the Government to insist upon specific and detailed design, construction, operation, maintenance and monitoring plans supported by strict review, inspection, and supervision.

The Department of the Interior must prepare and present to the Council on Environmental Quality an environmental impact statement which will withstand the attack we know it will receive in the courts.

I believe that the Corps of Engineers and the Department of Defense have given assistance in the preparation of such a statement and that if the Department of the Interior does, in fact, follow the suggestions made by the Department of Defense, the impact statement will be improved.

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

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I will be glad to yield my 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I yield my 3 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, further I believe that we have not suffered a setback, but have cleared another hurdle which is absolutely necessary for this project to be built in a way that will assure those of us who are interested, and everyone, who wishes this project to be built, that it will be built with the absolute controls and protection necessary to protect our Alaska environment. We have gone another inch down the long road to securing the final approval that will withstand the attack that this project has in the court.

It is important for everyone to realize that the Department of Defense, through the Corps of Engineers, must at a later date issue permits or licenses to cross the navigable areas in Alaska, and that the Department, and particularly the Corps of Engineers, has an absolute role in the preparation of this document.

I am very pleased that the Corps of Engineers has responsibly exercised its authority in this matter and is giving its guidance to the Department of the Interior so that the impact statement when finally presented to the President's Council on Environmental Quality will be all-encompassing so that there will be no necessity for further environmental hearings. Once the impact statement is filed it will be for the entire Federal Government and not just the Department of the Interior.

Viewed in that context, the action taken last week by the Department of Defense reflected credibly on the people who worked on the project, and on this series of comments on the drafting of the environmental statement.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter of transmittal from the office of the Assistant Secretary of Defense and the Department of Defense comments on the Department of the Interior's draft environmental impact statement on a trans-Alaska pipeline.

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

OFFICE OF THE
ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 8, 1971.

Mr. JACK HORTON,
Special Assistant,
Department of the Interior,
Washington, D.C.

DEAR MR. HORTON: This is in response to Under Secretary Russell's letter of 12 January 1971 transmitting a draft environmental statement on the Trans Alaska Pipeline and requesting comments on those areas of the statement over which this Department has jurisdictional responsibility or special competence.

For many years the Department of Defense has had extensive experience with civil and military facilities in Alaska, including responsibility for various military reservations and, through the Army Corps of Engineers, for certain activities in navigable waters and their tributaries. The concerned elements of this Department have reviewed the draft environmental impact statement and have suggested various clarifications and improvements.

We assume that the final version of the environmental impact statement will apply to the total over-all project, from well field to ocean terminal, and, accordingly, should serve as the basis upon which requests for permits or licenses should be processed under the appropriate laws.

The Department of Defense believes that the availability of Alaskan oil would make an important contribution to this Department's capability to meet its responsibilities during national emergencies. Our experts believe that a hot-oil pipeline can be built structurally sound if the strict controls, as proposed in the document, are enforced.

Comments that reflect our responsibilities under law or special expertise are enclosed for your consideration. We will be pleased to discuss any questions raised by our comments or assist in any way possible.

Thank you for the opportunity to participate in the review.

Sincerely,
M. G. PATTON, M.D.
Acting Deputy Assistant Secretary,
(Environmental Quality).

DEPARTMENT OF DEFENSE COMMENTS ON THE
DEPARTMENT OF THE INTERIOR'S DRAFT ENVIRONMENTAL
IMPACT STATEMENT ON A
TRANS ALASKA PIPELINE

GENERAL COMMENTS

1. Expand the scope of the statement to include secondary actions associated with and stemming from the proposed pipeline such as ocean terminals in the contiguous U.S., the potential for additional Alaskan pipelines and facilities, and offshore leasing and drilling.

2. To reduce any possible confusion that might arise as to responsibility, a new section should be added that delineates the jurisdiction and requisite action of the State of Alaska and each Federal agency as they pertain to the proposed project.

3. A shorter document, with perhaps some material in technical appendices, and a glossary of terms would improve readability and comprehension.

4. It should be recognized that successful execution of the immensely complex and diverse responsibilities placed on the Authorized Officer will be extremely difficult.

5. It is recommended that the proposed U.S. Labor Department Safety Standards, under the Construction Safety Act of 1969 as finally adopted, be utilized and enforcement of these standards be designated the responsibility of the Authorized Officer.

6. The impact statement should state that specific stipulations applicable to Military Real Estate would be contained in a permit

authorizing construction on lands controlled by the Department of Defense. These stipulations would contain provisions peculiar to military operations as well as all of the Interior Department's environmental stipulation which would not conflict with the military missions.

7. The statement should note that Department of the Army permits will be required for all work, discharges, and deposits in navigable waters of the United States which involve structures, activities or alterations covered in Sections 9 and 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401 and 403. In addition to the pipeline itself this would include removal of material from the bed of any navigable waterway and required port facilities constructed below mean high water. In issuing permits in the above situations, the DA may impose additional provisions as appear necessary.

8. In regard to both (6) and (7) above, acceptable: design, analysis, plans and specifications; construction procedures, sequence and timing; quality controls; and other supporting data would be required by the Department of the Army for permit processing.

9. The stipulations contained in this Impact Statement provide that the issuance of permit for construction will be subject to valid existing rights already granted to others. It is assumed that PLO No. 3520 dated 5 January 1965, withdrawing 8,958,720 acres of land as a Power Site Classification (No. 445) is such a valid right; however, these exists no specific conditions in the stipulations alerting the Permittee to potential impact of crossing this area.

10. The question of future designation of streams and rivers as navigable within the meaning of the Rivers and Harbors Act of 1899 and future public works projects on public lands is not specifically treated in the current stipulations. To avoid possible misunderstanding, we recommend that the stipulations be expanded to include the following:

a. Relocation or modification of the pipeline necessitated by the future designation of streams, rivers and lakes as "Navigable" within the meaning of the Rivers and Harbors Act of March 3, 1899, as amended, shall be at the sole expense of the Permittee.

b. Relocation or modification of the pipeline which might be required in planned or future public works projects shall be at the sole expense of the Permittee providing any such projects are constructed partially or fully with Federal funds or grants.

11. In our opinion, the technical and environmental stipulations presently contained in the statement while well done, are too general to support the positive assurances given throughout the report that adverse ecological changes and pollution potential will be eliminated or minimized by these stipulations. Our experience is that such stipulations in themselves cannot guarantee structural integrity or adequate protection of environmental matters. While the stipulations do establish excellent guidelines for design, construction, and operating considerations, we believe that it will be absolutely necessary for the Government to insist upon specific and detailed design, construction, operation, maintenance and monitoring plans supported by strict review, inspection and supervision. This data would include all features associated with the project and should be approved prior to authorization for construction. Such detail would facilitate a more quantitative assessment of the proposal.

12. We suspect serious questions will be raised regarding the discussion on alternatives. A more definitive discussion will probably answer many of these questions.

13. There is very little information present on the timing and sequence of governmental review and authorizations.

SPECIFIC COMMENTS—MAIN BODY

Page and comment

1. (a) Clarify use of the terms as; Federal lands, public lands, access roads, and haul roads (used on page 9).

(b) Project description is vague.

(c) Suggest deletion of last sentence.

2. (a) References to ANSI B 31.4, 1966, on page 2 of the impact statement and on page 16 of the Environmental Stipulations, should include ANSI reference addendum ANSI B 31.4a, 1969, and all addendums that may be current and applicable at time of design approval.

(b) Recommend that the words "Transportation of Hazardous Materials by Pipeline" on page 2 and in the Environmental Stipulations (page 16) be deleted and the following be substituted:

"Code of Federal Regulations, Title 49 (1969 Ed.), Chapter I, Part 195, Transportation of Liquids by Pipeline, with the following exceptions: Delete subparagraph 195.1 (b) (4) in its entirety." The proposed pipeline would transport crude petroleum in rural areas, except for minor segments of pipeline, between a production facility and the point where the petroleum is received by carrier. It therefore is exempt from Part 195, except for Subpart B, Accident Reporting. It is recommended that the provisions of Part 195 be made applicable to the project except (1) that all materials shall be constructed to be suitable and safe against damage in storage, in construction, and after installation in the pipeline when subjected to temperatures in the range to which it will be exposed, (2) in paragraph 195.248 add new subparagraph 195.248(b) (3) with the language, "soil types and seismic occurrences described in subparagraph 195.248(c) are present or are likely to occur during the anticipated life of the pipeline."

(c) We recommend the following be substituted for the entire paragraph at line 14:

"The pipe is manufactured to American Petroleum Institute Specifications 5LX and 5LS, modified to provide greater ductility at the low Arctic temperatures. The steel pipe has an outside diameter of 48 inches and is furnished in two wall thicknesses, 0.462 inches and 0.562 inches, and in three strengths, (1) 60,000 psi. minimum yield and 75,000 psi. minimum tensile, (2) 65,000 psi. minimum yield and 77,000 psi. minimum tensile, and (3) 75,000 psi. minimum yield and 82,000 psi. minimum tensile in 0.462 inch wall thickness only. The specifications additionally require fine grain, fully killed steel and Charpy impact tests to control toughness and ductility, in recognition of the exposure conditions. Ultrasonic, radiographic, and hydrostatic testing, including a 20 second hydrostatic mil test at 95% of minimum yield strength, and a 24 hour pressure test at 125% of maximum operating pressure in the as constructed condition, are required. The pipe coating selected is 10 mil powdered epoxy resin that is resistant to flame, funginert, and resistant to chemicals normally present in soils. The coated pipe would be cathodically protected after burial by impressed current devices that operate successfully in cold climates. This dual protection would minimize the adverse effects from external corrosion to the pipe."

3. (a) Additional discussion as to the reasons for and heat dissipation methods of the future cooling system at the origin station would be desirable.

(b) Where would the pump stations be located?

4. We suggest more details be supplied on the marine terminal at Valdez. In particular, this should include information on: Cathodic protection; second and third stages of development; water and harbor characteristics and their effects on berthing, maneuvering and cleanup.

6. The use of the communications system is not clear.

7. (a) Our information indicates that pressure, flow rate, and volume measurements are not sensitive enough to indicate the presence of small leaks.

(b) The impact statement does not clearly explain how intermediate pipeline isolating valves will be operated in case of emergency condition or their location. It implies manual operation for some valves which we seriously question as being adequate to minimize environmental damage. We recommend that the valving system be fully developed in the impact statement to demonstrate the effectiveness of the system.

(c) Seismic Considerations: This title should be changed to Seismic Monitoring.

(d) How would the seismic monitoring data be used?

8. (a) Revise the last sentence of 1st paragraph to read—where the pipeline crosses known major fault zones.

(b) We believe both marine and terrestrial cleanup procedures should be spelled out and evaluated prior to authorization for construction. It should be noted that, unless carefully devised, the terrestrial cleanup processes may be more damaging than a minor oil spill.

(c) How would floating booms and skimming devices operate during periods of floating or solid ice?

10. The last sentence of the second paragraph indicates the military comprises about 11 percent of the total population of Alaska. This should be changed to reflect the Department of Defense military and civilian personnel, and their dependents, comprise 23 percent of the total population of Alaska. The breakout of figures to support this is based on 1 January 1971 data as follows:

Military, 29,986.

Military Dependents, 32,865.

DOD Civilians, 5,178.

DOD Civilian Dependents, 3,826.

71,855 divided by 313,000 equals 22.96 percent.

15. (a) The conclusions that the information on permafrost and geology is adequate (line 6) for this statement is a matter of judgment and should be deleted.

(b) We suggest the sentence beginning in the fifth line of the second paragraph be revised as follows:

"It is formed when the net heat lost, usually to the atmosphere of the surface, exceeds the net heat gain from surface and subsurface sources and produces negative temperatures (—°) below the depth of maximum summer thawing."

16. Last sentence: This sentence is a repeat of the definition given on the previous page.

17. The map is virtually unreadable.

18. Suggest that earthquake magnitude scale be noted . . . e.e., Richter.

40. Line 21 says that the entire province is underlain by continuous permafrost and the last paragraph on page 41 says the permafrost is generally discontinuous along the proposed pipeline route.

46. Kenny Lake should be mentioned prior to Copper Center for a consistent south-to-north discussion.

51. What is the status of the proposed master land use plan?

53. "Lower River" should be "Lowe River."

74. Should cite source of information. January and July wind-chill factors appear to have been transposed.

78. Statement implies that "streams" are inactive in winter, which is not necessarily true; winter flow and icing development are active in many small drainage basins during the January-March period.

79. Data available to us indicates that information contained in this table could be misleading. Please cite the data source.

81. The value of 10 inches/year as an aver-

age runoff in the Yukon Basin may be high. See table on page 79.

88. On water quality, the statements "the pH of most waters is above 7" and "very few highly acid waters are found in Alaska" is questioned. While our investigations and data of areas examined do show this condition for ground water; surface waters generally have a pH value above pH 5.5 and below 7. Please cite the sources of information.

92. Freight tonnage appears to be low. Cite data source.

101. Heading does not agree with Table of Contents.

108. Gulkana has been omitted from the table.

111. Paragraph 2: Where recreational facilities are now taxed beyond capacity, is anyone planning for the expansion necessary to accommodate the present demand as well as for the impact to be created by pipeline construction and operation? Additionally, plans should now be made to provide recreational facilities in areas where such facilities do not exist in order to accommodate not only the pipeline's direct impact, but also future demands which will occur as a residual of the pipeline construction.

113.(a) First sentence: The statement that it is unlikely that there would be a significant influx of permanent settlers and that it is erroneous to view the public availability of this right-of-way as the first step in the "opening of the North" seems inconsistent with the findings on page 45 that land use patterns in most developing areas occur along existing transportation routes. The findings on pages 134 and 135 covering secondary effects due to mineral development potential also seem contradictory to the findings under land use.

(b) Pipeline right-of-way will not accommodate many areas where retention berms, erosion control structures, etc., are required.

(c) Acreage calculations for right-of-way for both roads and pipeline appear to be underestimated.

(d) Gravel sites—should include rock quarries.

(e) What lands will revert to non-use status after construction?

114. The statement that "the quantity of material necessary for the project has not been proven" could be misleading, as elsewhere (pages 131, 178, 191, and 194) the report states that up to 80 million cubic yards are needed. The statement should probably read "the quantity of material available for the project has not been proven."

(b) Consideration should be given in the rehabilitation of upland borrow pits into waterfowl producing "pot holes" or other beneficial uses.

116. Paragraph 2: If the project is constructed, many adverse effects will not be potential, but will actually exist.

119. With regard to "techniques and designs" being developed to allow unrestricted passage of wildlife, it may be desirable to provide examples of such designs.

121. (a) At the moment, effective methods to remove spilled oil, particularly on land, and to rehabilitate the area do not exist.

(b) The parenthetical expression under item 3 does not clarify the sentence as worded.

123. The relationships between the Beaufort Sea and the pipeline is not clear.

126. It may be appropriate to note other hindrances to revegetation, such as (a) overgrazing by animals attracted to snow-free areas over the pipe, and (b) pathogenic microorganism attack on plants in moist warm soils over the pipe, particularly in winter.

129. Implication is that all disturbances to surface or ground water movement can be avoided by appropriate system design. At this

time, the influence of a buried heat pipe on shallow groundwater movement is largely speculative in permafrost situations.

131. What is estimated effect of using 80 million cubic yards of granular material on future development along pipeline corridor?

136. (a) Last paragraph: The findings that marine transport activity in Prince William Sound with the proposed 120,000 to 250,000 ton tankers operating between aldez and ports to the south seem to understate the potential impact on fishing. The traffic involved to move 2,000,000 barrels (and possibly more) a day will change the character of this fishing village to that of an industrial nature.

(b) What is the view of the Alaska Highway Department regarding the additional loading of the Richardson Highway?

147. It is implied that native vegetation will invade an area revegetated with introduced species. At the moment this is only a premise, as exotic species could well resist invasion at some sites. Present indications are that a viable revegetation over the pipe may not be possible, and thus alternative measures of soil stabilization may have to be developed.

154. Golovin Bay is east of Nome.

157. (b) The number of pumping stations is based on several factors not yet presented. We assume, therefore, that the numbers presented (5 initial and 12 ultimate) are tentative.

170. It is probably unrealistic to imagine that vegetation might not be "greatly disturbed or compressed" during construction activities.

179. A growth rate in energy of 4.2 percent is noted for the last decade. It is assumed that this is an annual rate, although it is not so stated.

180. No mention is made of the large natural gas deposits on the North Slope. We suggest this energy source be discussed.

185. The three million barrels per day cited as the 1985 input from the North Slope activities indicates the possibility of another pipeline.

SPECIFIC COMMENTS—ENVIRONMENTAL STIPULATIONS

Page and comment

1. (a) The Environmental Stipulations should have a title page.

1. (b) The crude oil transportation pipeline system must be provided with adequate pressure relief devices and pressure disposal piping. Drawings, specifications and design analysis should clearly delineate disposal methods, where the protection will be installed, and details for the construction.

20. (a) The environmental stipulations covering the contingency plans for recovery and disposal of oil spills require the permittee to prepare a detailed plan for acceptance prior to commencement of operations. In the case of massive spills, we suggest consideration be given to reintroduction of the oil back into the line in the immediate area of the spill by tapping the pipe and pumping.

(b) Change first sentence to indicate individual containment dikes are required for each storage tank.

22. Environmental stipulation No. 16 does not adequately cover the problems inherent in deactivation of the pipeline and its future impact on the environment. We believe that additional thought should be given to this subject.

25. Flow control valves should be required on both the upstream and downstream side of major earthquake faults, as warranted to preclude spillage. These valves would close automatically.

30. The requirement that streams be crossed underground appears to be in conflict with paragraph on page 3 of the Tech-

nical Stipulations which provides for "both buried and elevated stream crossings."

31. The use of ramps may not be acceptable in all cases.

32. (a) Clarify water crossings with respect to timing of stream bed excavations.

32. We suggest changing the second sentence to indicate that disturbed areas shall be restored by permittee to a condition which is fully as resistant to erosion as the original condition.

33. Change this paragraph to indicate that seeding and planting shall be repeated, if necessary, until an adequate cover of vegetation is successfully established. Also, where seeding or planting must be delayed due to seasonal conditions, temporary mulching or other treatments will be applied sufficiently to protect against erosion until permanent vegetation can be established.

34. It will be nearly impossible to stay within the 54 ft. wide pipe right-of-way unless it is directly adjacent to the road. The stipulations on page 34, paragraph F-6 directs the contractor to stay within the right-of-way.

36. Stipulation H, "Small Craft Passage," does not appear to be warranted. Any obstruction to navigation on U.S. navigable waterways must be authorized by the Department of the Army and the stipulation implies that obstructions of craft over 40 feet is permissible.

40. In paragraph 3 it provides that "Request for exceptions . . . shall be submitted . . . at least thirty (30) days in advance of approval." It is suggested that "approval" be replaced with "construction at the location in question."

42. Rather than specify a maximum flow velocity through culverts of 4 ft./sec., and a zero gradient, a more suitable alternative would be to minimize disturbance to the natural hydraulic regime of the stream.

SPECIFIC COMMENTS—TECHNICAL STIPULATIONS

Page and comment

2. We recommend that a further discussion of crossing faults subject to differential movement be included.

9. (a) Recommend changing the word "described" to "defined" as Corps of Engineers Bulletin 52-8 was initially referenced only as a course for definition of the Standard Project Flood (SPF). Also add "(Engineering Manual 1110-2-1411)" at the end of the sentence.

9. (b) We suggest more flexibility be allowed for those cases where prudent design or potential adverse effects require accommodation of an event larger than either the 50-year flood or the maximum flood of record.

10. Design based on the maximum rainfall and snowmelt rate combination reasonably characteristic of the region does not specifically define the protection or erosion control expected. Perhaps some reference to probability or design storm criteria such as Standard Project Flood is needed.

11. The last sentence should be amended to read, "Plans and Specifications, design analysis, procedures, and quality controls, together with all supporting data, including, but not limited to exploration and test data, that will insure compliance with the environmental and technical needs shall be presented to and be acceptable to the Authorized Officer prior to authorization."

Addition

(a) We recommend that the stipulations include a requirement for a geology and soils strip plan and section.

(b) We recommend the stipulations be amended to require complete and specific coverage of "as-built" data having a bearing on location, azimuths, closures, ties, permanent markers and protection as well as tie-in of temporary stakes to permanent markers.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk (Mr. William F. Farmer, Jr.) 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.

RESOLUTION OF WEST VIRGINIA HOUSE OF DELEGATES REQUESTING REIMBURSEMENT FOR CERTAIN REVENUE LOSSES AND LIMITING FEDERAL ACQUISITION OF LAND WITHIN COUNTIES

Mr. BYRD of West Virginia. Mr. President, I have been supplied with a resolution adopted by the West Virginia House of Delegates requesting Congress to adopt legislation reimbursing counties for revenue loss due to Federal land acquisition and limiting Federal acquisition of land within counties.

Mr. President, I ask unanimous consent that the full text of concurrent Resolution No. 3 adopted by the West Virginia House of Delegates be printed in the RECORD.

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

A RESOLUTION REQUESTING CONGRESS TO ADOPT LEGISLATION REIMBURSING COUNTIES FOR REVENUE LOSS DUE TO FEDERAL LAND ACQUISITION AND LIMITING FEDERAL ACQUISITION OF LAND WITHIN COUNTIES

Whereas, Taxation of real property is the fundamental source of revenue for the operation of county government; and

Whereas, The Federal government, which pays no real property taxes has acquired large tracts of land in various parts of the United States and in West Virginia in particular; and

Whereas, This acquisition of land has all but destroyed the tax base in some counties of this State resulting in a serious curtailment in county services and facilities; therefore, be it

Resolved by the Legislature of West Virginia:

That the Congress of the United States is hereby requested to adopt appropriate legislation to provide annual reimbursement to the county from which such land may be removed or has been heretofore removed from the tax rolls, equivalent to the revenue lost to such county, and that there be a showing of necessity before there be acquisition; and, be it

Further Resolved, That the Clerk of the House of Delegates is hereby directed to forward copies of this resolution to the members of the West Virginia Congressional delegation in Washington, D.C.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROPOSED AMENDMENT TO THE CONSTITUTION EXTENDING THE RIGHT TO VOTE TO CITIZENS 18 YEARS OF AGE OR OLDER—AMENDMENT

AMENDMENT NO. 11

Mr. KENNEDY. Mr. President, on behalf of Senator EAGLETON and myself, together with Senators HARRIS, JAVITS, McGOVERN, and MONDALE, I send to the desk an amendment intended to be proposed by us, jointly, to Senate Joint Resolution 7. I ask that it may lie on the table and be printed, and that the text of the amendment may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table, and, without objection, the amendment will be printed in the RECORD in accordance with the Senators' request.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, the purpose of this amendment is to amend the U.S. Constitution to provide full voting representation in Congress for the District of Columbia—two Senators and the number of Representatives—probably two—to which the District would be entitled on the basis of its population.

Full voting representation in Congress for the District of Columbia is an act of simple justice that is long overdue for the citizens of the Nation's Capital. For nearly 200 years, the citizens of the District have been subjected to precisely the sort of injustice that triggered the American Revolution and led to the founding of our Republic.

Nowhere in America should the principles of democracy be more firmly established than in the Nation's Capital. In Washington today, however, democracy is weakest where it should be strongest. The District of Columbia is the last bastion of taxation without representation in the United States. By some cruel irony, a nation founded as a haven from tyranny and oppression denies to the citizens of its Capital the blessings of democracy. Indeed it is fairly said, Washington, D.C., is America's last colony.

The merits of the argument for District of Columbia representation in Congress are so well known—and so overwhelming—that it would serve no useful purpose for me to reiterate them again today. Time out of mind, the facts and arguments for District of Columbia representation have been set out in detail. The tragic history of 80 years of efforts to achieve this goal is well known. Our effort now would be especially significant, coming as it does on the eve of the election in the District to choose a nonvoting Delegate, an election in which every candidate enthusiastically endorses the need for full voting representation.

If one conclusion emerges from the futility of the legislative efforts of the

past, it is that District of Columbia representation in Congress cannot be achieved in the foreseeable future on its own. There is no realistic possibility that the District of Columbia proposal, standing alone, will be reported by the Judiciary Committee or subcommittee in the Senate or cleared by the Rules Committee in the House.

Therefore, our goal of bringing real democracy to the people of Washington can only be accomplished, if at all, by a Senate floor amendment. I am hopeful, therefore, that before the vote every Member of the Senate will give the most careful consideration to the merits of the issue, and to the basic American rights of the 760,000 American citizens among whom we live and work.

Perhaps the most unfortunate aspect of the District of Columbia amendment in its present posture is the furor that may be generated over the procedural step of attaching the amendment to Senate Joint Resolution 7, the 18-year-old voting amendment.

It is entirely proper for the District of Columbia amendment to be considered as part of the 18-year-old voting amendment. At a time when the attention of the Nation is about to become fixed on the Senate debate as we seek to extend the franchise for millions of young Americans throughout the Nation, it is fitting that we should also consider the very similar question of the voting rights of citizens of the Nation's Capital.

I firmly believe that no action we take on the District of Columbia amendment can or should be permitted to jeopardize the 18-year-old voting amendment. There is no danger that the District of Columbia amendment will kill or even substantially delay the 18-year-old voting amendment. To suggest otherwise is to disparage the rights of hundreds of thousands of citizens of the Nation's Capital.

I yield to none in my strong support for the right of 18-year-olds to vote in State and local elections, and in my strong determination to eliminate as rapidly as possible the unfortunate effect of the Supreme Court's decision in the 18-year-old voting case last December.

At the same time, however, I am convinced that no action we now take on the District of Columbia amendment will interfere in any way with the enactment of the 18-year-old voting amendment. Obviously, there is no danger of such jeopardy in the process by which the States must ratify the 18-year-old voting amendment. Under the language of the District of Columbia amendment I have proposed, the States would be required to ratify the two provisions separately.

Nor do I believe that any jeopardy exists with respect to the passage of the 18-year-old voting amendment by Congress. That amendment now has a total of 86 cosponsors. Rarely, if ever, has a proposed constitutional amendment had such overwhelming support in the Congress. A brief delay now will in no way delay the business of the Senate. It will in no way prevent the ratification of the amendment in time for the 1972 elec-

tions. Yet, the delay can mean a different world for every citizen of the District of Columbia.

It is worth rebutting a number of the arguments that have been made in the past and are now being made against the District of Columbia amendment itself.

First, overhanging the entire debate is the specter of racism and partisan politics. I raise these two arguments only to rebut them, because they cannot stand the light of day. No Senator—no Senator whatever—would vote against the citizens of the District for these reasons.

Second, it is said that the District of Columbia amendment deserves longer and more careful study than it can receive at this time as a Senate floor amendment. In my prior statements on the proposed amendment, I have described in detail the history of efforts to achieve voting representation in Congress for the District of Columbia. The first constitutional amendment to win this goal was introduced in Congress in 1888. Since that date, hundreds of different amendments have been introduced in Congress, and dozens of hearings have been held by Senate and House committees over the years. The scenario is always the same. Inevitably, the hearings generate overwhelming support for the District of Columbia amendment. And, just as inevitably, every effort meets with uniform frustration and defeat.

The most recent Senate experience is instructive. Last year, at the beginning of June, the Senate Subcommittee on Constitutional Amendments held hearings on the District of Columbia amendment. Under the leadership of Senator BIRCH BAYH, one of the most distinguished and longstanding advocates of the cause of District of Columbia representation, the hearings again developed virtually unanimous support for the District of Columbia amendment. Over the period of the next several weeks because of its inability to obtain a quorum, the subcommittee was continuously thwarted in its effort to report the amendment favorably. Finally, when the subcommittee was able to muster a quorum at the end of July, Senator BAYH's motion to bring up the District of Columbia amendment for debate and action was blocked by the objection of several members of the subcommittee, and the amendment was effectively killed for that Congress.

On the face of this dismal record, unbroken since the District of Columbia amendment was first proposed in the 19th century, can we really maintain that it needs "more debate?" I submit that 80 years is long enough.

Third, it is said, Congress has just given the District a nonvoting delegate, and this is enough of an accomplishment for this session and this Congress. It is nothing of the sort. The nonvoting delegate is not an end in itself. The only real value it has is as an interim measure, a halfway house to tide us over the brief period while a constitutional amendment for full representation is enacted by Congress and ratified by the States.

Now that the nonvoting delegate is a reality, we must fix our attention on the true goal. We must adopt a constitutional amendments for full voting repre-

sentation for the District, and submit it to the States for ratification. There could be no more ideal result than for the District to have the active voice and benefit of the nonvoting delegate as a forerunner in the present Congress, to lay the foundation for the voting Senators and Congressmen who will come after him in the 93d Congress.

The one thing we cannot do is to allow the status of the interim delegate to deteriorate into that of a permanent nonvoting representative. At last, we have a good chance of success, if only we keep our sights high, and do not relax our effort before the job is done.

Fourth, some opponents of representation for the District of Columbia claim that the amendment would treat the District as a State. They say that the District is not a State, but a city, smaller than at least eight other cities in the Nation, and that there is no greater reason for this city to be represented in Congress than larger cities which are denied the right. This argument ignores the obvious fact that other American cities are political subdivisions of States, which are already represented in both the Senate and the House of Representatives.

Moreover, for years, the District of Columbia has traditionally been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause:

For the purposes of this legislation, the term "State" shall include the District of Columbia.

This argument against District of Columbia representation is heard most frequently in relation to the Senate. The objection is raised that only States should be represented in the Senate, and that the District of Columbia is not and cannot ever become a State.

I believe that we can accept the logic of this argument without making it dispositive. I share the strong concern of the Members of this body for the traditions and prerogatives of the Senate, but I feel a stronger concern against the injustice of denying a substantial group in our population the right to participate in making the laws by which they are governed. Vital legislation affecting the lives of all the citizens in the Nation is debated in every session of the Senate. Until the people of the District are represented in the Senate as well as in the House, they will not have the right of true self-government that is the birthright of every American citizen.

In addition, by accepting two Senators for the District of Columbia as part of the amendment, the Senate itself will be demonstrating its good faith to the House. Too often, as the recent House debate on the nonvoting delegate made clear, the Senate has been generous in proposing representation in the House for the District of Columbia, but reluctant to invite the District into the well of the Senate itself. Once the Senate accepts the principle of full-voting representation in the Senate for the District of Columbia, I am confident that the House will follow suit.

To be sure, the status of the District of Columbia is unique in the politics and geography of America. Obviously, for example, we would not grant full voting representation in either the Senate or the House to Puerto Rico, unless that Commonwealth chooses to become a State. We know, however, that, unlike all our other territories, past or present, the District of Columbia can never aspire to statehood in the United States. Can we really maintain, therefore, that the citizens of the District are doomed to a perpetual colonial status, to denial of the most basic right in civilized society—the right that is preservative of all other rights, the right of self-government? Surely this is too high a price to pay for preserving the traditions and prerogatives of the Senate.

Nothing in our Constitution or its history supports the interpretation that the District of Columbia was intended to be denied representation in both the Senate and the House. Indeed, in "The Federalist," No. 43, James Madison, one of the principal architects of the Constitution, wrote that the prospective inhabitants of the Federal City—

Will have had their voice in the election of the government which is to exercise authority over them.

Clearly, Madison was assuming that the citizens of the Nation's Capital would be represented in Congress.

Fifth, another, even less persuasive, objection to District of Columbia representation in Congress rests on the proviso in article V of the Constitution, which declares that—

No state, without its consent, shall be deprived of its equal suffrage in the Senate.

It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any State of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of article V is clear—no single State may be given a larger number of Senators than any other State.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for 200 years, and it is intended to endure throughout our history. This is all that article V means, and all that it requires.

In addition, article V has never been read as prohibiting the representation of new States in the Senate, even though—obviously—the admission of a new State dilutes the voice and power of the existing States in the Senate. Indeed, since the ratification of the Constitution by the original 13 States, 37 new States have been admitted to the Union. As a result, the power of the original 13 States in the Senate has been diluted nearly fourfold, from 2/26 to 2/100. Yet, no one has ever argued that any of the original 13 States has been deprived of its equal suffrage in the Senate.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate.

Each State will still have two votes in the Senate and each State will still have the same proportionate vote as any other State.

As I have attempted to show, the arguments against full voting representation in Congress for the District of Columbia have no merit, especially in light of the grave injustice that is being perpetuated against the citizens of the District. Today, the United States stands virtually alone among the democratic nations of the world in denying representative government to the people of its capital city. The citizens of Washington deserve to share in the right of self-government, the birthright of every American citizen. The Senate vote will be a symbol of our commitment to our heritage and to the cause of freedom, equality, and justice for all our citizens.

Propitious opportunities often come in strange guises and alliances, and the present opportunity is no exception. If we do not embrace it now, we may not soon see its like again.

EXHIBIT 1

AMENDMENT NO. 11

On page —, line —, insert the following:

Beginning with the word "That" in line 3, page 1, strike out all to and including the colon in line 7, page 1, and insert in lieu thereof the following: "That the following articles are hereby proposed as amendments to the Constitution of the United States, any one of which shall be valid to all intents and purposes as part of the Constitution only if ratified separately by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:"

On page 2, after line 7, insert the following:

"ARTICLE —

"SECTION 1. The people of the District constituting the seat of government of the United States shall elect two Senators and the number of Representatives in Congress to which the District would be entitled by apportionment if it were a State. Each Senator or Representative so elected shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship, shall be elected for the same term, and shall have the same rights, privileges, and obligations as a Senator or Representative from a State.

"SEC. 2. When vacancies happen in the representation of the District in either the Senate or the House of Representatives, the people of the District shall fill such vacancies by election.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District. Each Representative or Senator from the District shall be entitled to participate in the choosing of the President or Vice President in the House of Representatives or Senate under the twelfth article of amendment as if the District were a State.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation."

Amend the title so as to read "Joint resolution proposing amendments to the Constitution to provide equal rights for men and women, and to provide for the representation of the District of Columbia in the Congress."

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in

the RECORD a more detailed statement I made last year upon introducing a similar District of Columbia representation amendment.

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

STATEMENT OF SENATOR EDWARD M. KENNEDY, ON INTRODUCING A CONSTITUTIONAL AMENDMENT TO PROVIDE FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA, SEPTEMBER 16, 1970

Mr. President, on behalf of myself and Senator Mathias, and Senator Church, Senator Cranston, Senator Eagleton, Senator Gravel, Senator Harris, Senator Magnuson, Senator Mondale, Senator Nelson, Senator Proxmire and Senator Stevens, I submit an amendment to S.J. Res. 1 and ask unanimous consent that it lie on the table and be printed. The purpose of the amendment is to amend the United States Constitution to provide full voting representation in Congress for the District of Columbia—two Senators and the number of Representatives to which the District would be entitled on the basis of its population. It is my intention to call up this amendment at the appropriate time during the present debate.

It is entirely proper for this amendment to be considered as part of S.J. Res. 1, the proposed constitutional amendment to establish a system of direct popular election of the President of the United States. The attention of the nation is now fixed on the current debate in the Senate, as we seek to resolve the question of the manner in which all our nation's citizens are to be represented by their President, and it is fitting that we also consider the manner in which the citizens of our nation's capital are to be represented in the Congress.

One of the most glaring injustices in our democracy today is our failure to give full voting representation in Congress to the people of the District of Columbia. In recent years, we have made substantial progress toward extending the franchise and broadening the base of representative government in America. Most recently, we voted overwhelmingly last spring to lower the voting age to 18, thereby bringing millions of young Americans into the mainstream of the political process.

I believe that the opportunity is now at hand to take another major step forward in our long march toward fulfilling the promise of representative government for all our people. The time has come to eliminate the injustice to which the people of the nation's capital has been so unfairly subjected for so long. The time has come to give full voting representation in Congress to the District of Columbia.

SUMMARY OF THE PROPOSED CONSTITUTIONAL AMENDMENT

The Constitutional Amendment I am offering would provide full voting representation in Congress for the District of Columbia. The amendment would contain seven principal provisions:

First, citizens of the District of Columbia would elect two Senators and the number of Representatives in Congress (probably two) to which the District would be entitled on the basis of population.

Second, each Senator or Representative would be required to be a resident of the District.

Third, each Senator or Representative would possess the same qualifications as to age and citizenship and have the same rights, privileges, and obligations as other Senators or Representatives.

Fourth, a vacancy in the representation of the District of Columbia in the Senate or the House of Representatives would be filled by a special election by the voters in the District.

Fifth, the amendment would have no effect on the provision in the Twenty-third amendment for determining the number of electors for President and Vice President to be appointed for the District. However, depending upon the outcome of the debate on S.J. Res. 1, each Senator or Representative from the District would be entitled to participate in choosing the President or Vice President in cases where the presidential election is decided by the Congress.

Sixth, Congress would have the power to implement the amendment by appropriate legislation.

Seventh, the amendment would have to be ratified by the States separately from the direct popular election amendment.

DISTRICT OF COLUMBIA REPRESENTATION IN CONGRESS AND HOME RULE FOR DISTRICT OF COLUMBIA

The proposed amendment deals only with representation in Congress for the District of Columbia. It is not a proposal for "Home Rule" for the District. Citizens of the nation's capital have never had representation in Congress. Ironically, however, in times past, they have had home rule—the right to choose their own local government. For almost a century—from 1800, when the District of Columbia was first established by Congress, until 1874, when Congress eliminated all elective offices for the District—citizens of the District had at least some form of elected self-government.

I strongly support the principle of home rule for the District of Columbia. In the next Congress, I intend to make a strong effort to end the years of frustrating effort to achieve this basic reform. Whatever the result of these efforts, however, at least we can agree now that representation in Congress for the District of Columbia is both deserved and justified.

THE NEED FOR FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Full voting representation in Congress is an act of simple justice for the District of Columbia that is long overdue. For nearly a century, every effort to accomplish this goal has met with uniform frustration and defeat. It is time now for Congress to act to end this injustice.

Thanks to the 23rd Amendment to the Constitution, adopted in 1961, the citizens of the District of Columbia are now eligible to vote for President and Vice President. But, there is still an unfair barrier against their participation in the national legislature. By some strange anomaly, citizens of the District can vote for their President, but not for their own representatives in Congress.

There is no reasonable basis to continue to exclude the citizens of the District from the right to representation in Congress. We can no longer ignore the fact that the power of the vote in Congress determines much of the life and direction of the nation. Even without the power of this vote, the people of the District are still required to fulfill all the obligations of American citizenship. But because they have no voice in shaping the laws by which they are governed, they are relegated to the status of second class citizens in our society.

The residents of the Federal City are as deeply concerned about their city's condition and future as are the residents of Boston, New York, Chicago, Los Angeles, or any other American metropolis. But Washingtonians do not share equally with other Americans in the opportunity to make the decisions that affect their lives. Only a Constitutional Amendment granting full representation in Congress will enable citizens of the District to enjoy each of the rights granted to all Americans by the Constitution of our country.

D.C. representation in Congress, however, is more than just a prize for the citizens of the District. It is also a symbol of the problems and aspirations of the nation as a whole. For the United States, the world's greatest democracy, to deny the right of representation to the people of its capital is unconscionable, and the shame of the denial is compounded by the bitter racial emotions to which it gives rise. All of us in Congress, whatever the State or District we represent, have the obligation to eliminate this blight on the principles of our democracy.

The right of representative government is fundamental to democracy in America. Nowhere in America should the principle of representative government be more firmly established than in the nation's capital. In Washington today, however, democracy is weakest where it should be strongest. In this city where the principle of representative government should be practiced with pride as a symbol of freedom to the rest of the country and to the entire free world, democracy is shamefully lacking. By some cruel irony, a nation founded as a haven from oppression and tyranny denies to the citizens of its capital the blessing of democracy. Indeed, it is fairly said that Washington is America's Last Colony.

Washington today is a city of 764,000 people. It has a population greater than that of each of eleven states. Together, those eleven states have a total of 39 representatives in the Senate and the House. Yet, the people of Washington have no voice whatever in Congress. By contrast, those eleven states are currently represented as follows:

Number of Senators, number of Representatives and population—preliminary 1970 census estimate

District of Columbia.....	764,000
Two Senators, two Representatives:	
Hawaii.....	748,000
New Hampshire.....	722,000
Idaho.....	698,000
Montana.....	682,000
South Dakota.....	661,000
North Dakota.....	610,000
Two Senators, one Representative:	
Delaware.....	542,000
Nevada.....	481,000
Vermont.....	437,000
Wyoming.....	328,000
Alaska.....	294,000

The nation is now completing the 1970 census, from which these figures are derived. Article I, Section 2 of the Constitution requires that the census shall be taken at least once every ten years. Although the census now fulfills many purposes, the Constitution makes clear that the primary purpose of the census is to determine congressional representation in the House of Representatives. Ironically, in the District of Columbia, the national census continues to fulfill every purpose except its primary purpose.

As viewed by our nation's official policy, Washingtonians are equal for the purpose of taxation, the draft, and all the other duties of citizenship, but not for the purpose of representation. Each year, they are taxed for hundreds of millions of dollars without representation, and their sons are drafted to fight and die in Vietnam. In countless ways, the people of Washington bear the manifold responsibilities of Federal citizenship, but they are denied the opportunity to participate in making the laws by which they are governed.

To deny District citizens a voice and a vote in the Congress is not only to deny 764,000 people their rightful representation in the Senate or House. At least in part, it is also to deny more than 35 million people in sixteen different states the full attention of their own Senators and Representatives.

These are the people represented by the twelve Senators and 32 Representatives serving on the Senate and House Committees on the District of Columbia and the respective appropriations subcommittees.

Although representation in Congress for the District will not end the participation of members of Congress on the Senate and House District Committees, it may reasonably be expected that at least Senators from the most populous states like New York, would be more free to devote their attention to their own constituents and would not also be assigned the responsibility of the detailed local work of a District Committee. It is notorious, in the present situation, that Senators and Representatives on the District Committees are too often obliged to put their work on national legislation ahead of their work on District legislation. Clearly, it would be desirable to have Senators and Representatives on those committees whose primary loyalty would be to the citizens of the District.

Of course, in the early years of our republic the status of the District of Columbia was not the same as it is today. Our founding fathers had no idea that the pastures, marshes and cornfields along the Potomac River would one day become the residence for nearly a million people and the center of one of the nation's greatest metropolitan areas.

Today, however, the situation is different. The nation's capital has expanded into a vast and complex society, the heart of democracy in America. Washingtonians live with precisely the same issues that face every other part of the nation. War and race, poverty and crime, education and health are the great issues of our time, and they vitally affect all our people. Only in Washington, however, are American citizens denied a voice in solving these problems. The laws and policies that personally affect the daily lives of Washington residents are entirely dictated by us in Congress. Yet, not one of us in Congress is a direct representative of the people of the capital city.

Equally important, the vast political changes in our society in recent years have placed extraordinary emphasis on the fair and equal participation of every citizen in the most basic right of all in our democratic society—the right to vote. The decade of the sixties brought enormous progress in this area to millions of Americans. The Civil Rights Acts, the Voting Rights Act, the abolition of the poll tax, the reapportionment decisions of the Supreme Court, and now the 18 year old vote, are just a few of the great steps we have taken in recent years to achieve the ideal stated so eloquently in the Declaration of Independence, that "Governments are instituted among men, deriving their just powers from the consent of the governed."

At the same time, the remarkable advances we have secured in another area demonstrate even more clearly the injustice to which hundreds of thousands of Washington citizens are condemned. By denying them the right to representation in Congress, we rob them of one of the basic birthrights of American citizens.

In large part, I believe, the absence of D. C. representation in Congress is the result of ignorance and apathy, not conscious discrimination. Wherever I travel in Massachusetts, I find that people are amazed to hear that the citizens of Washington have no representation in Congress. Now that the plight of the nation's capital is becoming familiar in states throughout the country, I am hopeful that the remedy will be swift.

I fully understand the issues raised by those concerned about the changing relationship of the Federal Government and the Congress to the District. We all know that this is not and has never been a static rela-

tionship. Rather, the relationship has undergone a process of continual evolution through the years.

It is fair to say, however, that the only real controversy in the debate has always been over the question of home rule—a question entirely separate from the fundamental issue of representation in Congress for the citizens of the District.

Agonizing debates over many years have produced a wide variety of proposals to resolve the question of home rule. Some have suggested a federal enclave, withholding most or all federal property from municipal jurisdiction, but restoring all the rest to local control. Others call for complete local self-government, subject only to such minimum controls as may be clearly essential to protect the seat of Federal Government.

No such bitter controversy surrounds the question of D.C. representation in Congress. This is one contemporary need to which Congress can and should respond. The people of Washington are entitled to full voting representation in the United States Senate and House of Representatives. It is long past time for Congress to demonstrate to our own people and to people throughout the world that in America, democracy exists for all.

SENATE JOINT RESOLUTION 1 AS AN APPROPRIATE VEHICLE FOR ACHIEVING FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

As I have already briefly indicated, I believe that S.J. Res. 1 is an appropriate vehicle for achieving full voting representation in Congress to the District of Columbia. At a time when we in Congress are considering a change in one of the fundamental aspects of our democracy—the way we choose our president—it is fitting that we also consider one of the most glaring additional flaws in our democracy—the lack of representation in Congress for the citizens of the nation's capital.

I firmly believe that no action we take on the amendment for D.C. representation should be permitted to jeopardize the pending amendment for popular action of the President. For far too long, we have failed to act to insure that our President is the people's President, not a minority President chosen by the Electoral College or by the House of Representatives. Therefore, our first priority must be to insure prompt action by the Senate on the pending resolution, which has already passed the House, so that it may be sent quickly to the States for ratification.

Obviously, before proceeding with the amendment for D.C. representation, we must be certain that we will not jeopardize the popular election amendment. It is my belief that there will be no such jeopardy, and that the Senate and House procedures are fully adequate to insure this result.

Six months ago, similar arguments were made against our effort to lower the voting age to 18 by amending the Voting Rights Bill on the Senate floor. To do so, it was said, might endanger passage of the Voting Rights Bill itself. We know now that those arguments were wrong. By the overwhelming vote of 64-17, the Senate passed the amendment to lower the voting age. The entire Senate bill was accepted by the House and signed into law by the President. As a result, next January 1, the Supreme Court willing, eleven million new young voters between the ages of 18 and 21 will be eligible to go to the polls for the first time.

Indeed, it seems clear in retrospect that, far from jeopardizing the Voting Rights Bill, the Voting Age amendment actually contributed to the overall passage of the bill. Similarly, I believe the amendment for D.C. representation may actually contribute to Senate and House passage of the pending amendment for popular election of the President.

Moreover, the overwhelming margin—300-

58—by which the House of Representatives recently approved a nonvoting delegate in the House for the District of Columbia indicates the substantial likelihood that the House will also accept full voting representation for the District, once the House is permitted to vote on the question.

Of course, no argument can be made that the D.C. amendment will jeopardize ratification of the popular election amendment by the States. Under clearly established precedents, it is possible for Congress to pass a single resolution submitting a series of constitutional amendments to the States, with the provision that each of the amendments is to become effective as soon as it is separately ratified by the required number of States.

This was the procedure followed with respect to the Bill of Rights, the first ten amendments to the Constitution. In September 1789, the First Congress approved a resolution submitting twelve proposed constitutional amendments to the States. Ratification of amendments 3 through 12, which became the Bill of Rights, was completed in 1791. But the first two amendments, one dealing with representation in the House and the other affecting the compensation of Members of Congress, were never ratified.

Similarly, in the 86th Congress, the full Senate approved a resolution containing three separate constitutional amendments. In 1959, the Senate Judiciary Committee had favorably reported an amendment authorizing State Governors to fill vacancies in the House of Representatives, whenever the total number of vacancies exceeded half the membership of the House. Under the 17th Amendment, State Governors already had the power to fill vacancies in the Senate, and the proposed amendment was designed to enable the House to be reconstituted in the event of a devastating nuclear attack. In the course of the Senate floor debate on that amendment in 1960, two additional, unrelated amendments were added:

The first, offered by Senator Spessard Holland, would have repealed the poll tax in Federal elections.

The second, an amendment offered by Senator Kenneth Keating, would have given citizens of the District of Columbia the right to vote in Presidential elections, and a representative in the House.

The House refused to accept the three-part resolution passed by the Senate. Instead, the House passed a resolution containing only the provision for D.C. voting in Presidential elections. The House version was accepted by the Senate, and eventually became the 23rd Amendment. Thus, what is now the 23rd Amendment to the Constitution began its life as a Senate floor amendment. It is precisely this procedure, justified by recent history, that I seek to follow for D.C. representation in Congress.

Moreover, as is well known, the 23rd Amendment was one of the most rapidly ratified amendments in the history of the Constitution. The amendment passed Congress and was submitted to the States for ratification in June 1960. It was ratified before the end of March 1961. Less than ten months elapsed between final action by Congress on the amendment and ratification by the States. Unlike the prospects of ratification of S.J. Res. 1 by the States, therefore, which now seem increasingly uncertain, I am confident that the States will embrace the D.C. representation amendment as enthusiastically as they embraced the 23rd Amendment, if only Congress will lift the barrier it has imposed for so long.

It is also worth mentioning what I think is already clear. Over the past 80 years, hundreds of different resolutions have been introduced in Congress to establish voting representation for the District of Columbia, but all efforts to achieve this goal have met

with uniform frustration and defeat. Just as in the case of the 18 year old voting provision, there is no realistic possibility that a proposal on its own for D.C. representation in Congress will be reported by the Judiciary Committee in the Senate or cleared by the Rules Committee in the House at any time in the foreseeable future.

Our goal of bringing a greater measure of democracy to the people of Washington can be accomplished, if at all, only by a floor amendment. I am hopeful, therefore, that all of us in the Senate will give the most careful consideration to the opportunity that is at hand.

FULL VOTING REPRESENTATION AND THE NONVOTING DELEGATE

On Wednesday, September 9, the Senate passed and sent to the President for his signature a bill to create a nonvoting delegate in the House of Representatives for the District of Columbia.

On August 10, the Nonvoting Delegate Bill had passed the House of Representatives by the overwhelming vote of 300-57. Shortly thereafter, upon consulting publicly and privately with leaders in District of Columbia affairs and Members of the Senate, I asked the Majority Leader to defer Senate consideration of the Nonvoting Delegate Bill until after the Labor Day recess.

I believe that this brief delay would enhance the prospect of achieving full voting representation in Congress for the District of Columbia. I was confident that the delay would in no way jeopardize the enactment of the nonvoting delegate bill in this Congress.

As I made clear at the time, I fully supported a nonvoting delegate in Congress for the District of Columbia. I commended the successful efforts of Senator Tydings, Congressman Nelsen, and District leaders in bringing this goal within easy reach at last. I especially commended Mayor Walter Washington, David Carlner, and the other leaders of the District for the common bond of unity they formed in successfully urging passage of the nonvoting delegate bill in the House. These leaders have served the District well. There is no difference among us on the overall goal. The question that arose was entirely one of timing and legislative strategy.

A number of Senators and District leaders with whom I conferred shared my concern that the immediate passage of nonvoting delegate would diminish the very real opportunity we have in this Congress to achieve our vastly more important goal of full voting representation for the District of Columbia—two voting Senators and two voting Congressmen.

Already, sentiment had begun to develop in Congress that the nonvoting delegate is enough of an accomplishment for this session and this Congress. It is nothing of the sort. The nonvoting delegate is not an end in itself. The only real value it has is as an interim measure, a half-way house to tide us over the brief period while a constitutional amendment for full voting representation is enacted by Congress and ratified by the States.

Last Wednesday, when the Senate returned from its Labor Day recess, I conferred again with members of the Senate and leaders of the District of Columbia. In light of the impending rush toward congressional adjournment, it was clear that the Senate action on the nonvoting delegate bill should no longer be delayed. More important, it was also clear that the brief delay in Senate action had succeeded in bringing an extraordinary amount of local and national attention to the higher goal we seek—full voting representation in Congress for the District—and a deeper understanding of the role of the nonvoting delegate as an interim measure en route to full voting representation.

Within hours after I removed my "hold" on the nonvoting delegate bill, it passed the Senate and was cleared for final action by the President.

Now that the nonvoting delegate is virtually a reality, I am hopeful that we can return our attention to the true goal. We must adopt the constitutional amendment I have offered, and submit it to the states for ratification. Of course, during the ratification process, the District will have the active voice and benefit of the nonvoting delegate, who will be a forerunner in Congress for the voting Senators and Congressmen who will come after him.

Only in this way can we maintain the momentum we have begun to generate. We simply cannot allow the status of the interim delegate to deteriorate into that of a permanent nonvoting representative. At last, we have a good chance of success, if only we keep our sights high, and do not relax our effort before the job is done.

POSSIBLE ARGUMENTS AGAINST FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

In the past, representation in Congress for the District of Columbia has been the subject of a number of unconvincing opposing arguments. Because they are so unconvincing, most of us who favor representation for the District dismiss these arguments as a cover for partisan politics, or, worse, as a cover for racism.

Some opponents of representation for the District of Columbia claim that the amendment would treat the District as a state. They say that the District is not a State, but a city, smaller than at least eight other cities in the nation, and that there is no greater reason for this city to be represented in Congress than larger cities which are denied the right. This argument ignores the obvious fact that other American cities are political subdivisions of States, which are already represented in both the Senate and the House of Representatives. For years, the District of Columbia has traditionally been treated as a state in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause—"For the purposes of this legislation, the District of Columbia shall be treated as a State."

This argument against D.C. representation is heard most frequently in relation to the Senate. The objection is raised that only States should be represented in the Senate, and that the District of Columbia is not and cannot ever become a State.

I believe that we can accept the logic of this argument without making it dispositive. I share the strong concern of the members of this body for the traditions and prerogatives of the Senate, but I also feel a strong concern against the injustice of denying a substantial group in our population the right to participate in making the laws by which they are governed. Vital legislation affecting the lives of all the citizens in the nation is debated in every session of the Senate. Until the people of the District are represented in the Senate as well as in the House, they will not have the right of true self-government that is the birthright of every American citizen.

In addition, by accepting two Senators for the District of Columbia as part of the amendment, as well as representation in the House, the Senate itself will be demonstrating its good faith to the House. Too often, as the recent House debate on the nonvoting delegate made clear, the Senate has been generous in proposing representation in the House for the District of Columbia, but reluctant to invite the District into the well of the Senate itself. Once the Senate accepts the principle of full-voting representation in the Senate for the District of Colum-

bia, I am confident that the House will follow suit.

To be sure, the status of the District of Columbia is unique in the politics and geography of America. Obviously, for example, we would not grant voting representation in either the Senate or the House to Puerto Rico, unless that Commonwealth chose to become a state. We know, however, that, unlike all our other territories, past or present, the District of Columbia can never aspire to statehood in the United States. Can we really maintain, therefore, that the citizens of the District are doomed to a perpetual colonial status, to denial of the most basic right in civilized society—the right that is preservative of all other rights, the right of self-government? Surely this is too high a price to pay for preserving the traditions and prerogatives of the Senate.

Nothing in our Constitution or its history supports the interpretation that the District of Columbia was not intended to be entitled to representation in both the Senate and the House. Indeed, in the *Federalist*, No. 43, James Madison, one of the principal architects of the Constitution, wrote that the prospective inhabitants of the Federal City "will have had their voice in the election of the government which is to exercise authority over them." Clearly, Madison was assuming that the citizens of the Nation's Capital would be represented in Congress.

Another, even less persuasive, objection to District representation rests on the proviso in Article V of the Constitution, which declares that "No state, without its consent, shall be deprived of its equal suffrage in the Senate." It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any state of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of Article V is clear—no single state may be given a larger number of Senators than any other State.

In other words, it was the intention of the founding fathers in the proviso of Article V to make clear that the Senate could never—even by Constitutional amendment—be apportioned by population or on any other basis that would give one State more representatives in the Senate than any other state.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for two hundred years, and it is intended to endure throughout our history. This is all that Article V means, and all that it requires.

In addition, Article V has never been read as prohibiting the representation of new States in the Senate, even though—obviously—the admission of a new State dilutes the voice and power of the existing states in the Senate. Indeed, since the ratification of the Constitution by the original 13 states, 37 new states have been admitted to the Union. As a result, the power of the original 13 states in the Senate has been diluted nearly fourfold, from 2/26 to 2/100. Yet, no one has ever argued that any of the original 13 States has been deprived of its equal suffrage in the Senate.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as any other State.

RECENT EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Although a large number of proposed constitutional amendments for full voting representation in Congress in the District of Columbia have been introduced over the

years, none has yet come to a vote on the floor of either the Senate or the House.

One of the most significant recent developments occurred in 1967, when the Johnson Administration proposed a constitutional amendment to provide a single voting representative for the District in the House of Representatives. The proposal would also have authorized Congress to act by statute to enlarge D.C. representation in either the Senate or the House, up to the representation to which the District's population entitles it. Hearings on this proposal were held before both the Senate and House Judiciary Committees in the 90th Congress.

No further action was taken in the Senate, but the House Judiciary Committee—under the leadership of its distinguished Chairman, Congressman Emanuel Celler—reported the proposal in a much more far reaching form. As reported, the proposal—essentially the same proposal that I am now offering—would provide for the election of two Senators by the voters of the District and election of the number of Representatives based on the city's population. Unfortunately, the House Rules Committee failed to act on the proposal. No further action could be taken by the House, and the amendment died when the 90th Congress adjourned. Nevertheless, this action by the House Judiciary Committee is the high-water mark of all the efforts to achieve this reform. But for the remarkable record of achievement already compiled in the House, there would be no real prospect for enactment of the amendment at this time.

It is also significant that a few years earlier, in 1960, the full Senate itself had accepted the principle of representation in Congress for the District of Columbia. By a vote of 63-25—well over the two-thirds majority required to pass a constitutional amendment—the Senate accepted an amendment, sponsored by Senator Kenneth Keating, which would have given citizens of the District of Columbia the right not only to vote in Presidential elections, but also to be represented in the House of Representatives. Under the provisions of the amendment, Congress was authorized to determine by statute whether the District representatives would be given voting privileges in the House. The provision for D.C. voting in Presidential elections went on to become the 23rd amendment, but the provision for D.C. representation in the House died in the House Judiciary Committee. Today, however, a decade later, the climate in that Committee is obviously more favorable toward full voting representation in Congress for the District.

In addition, it is worth emphasizing that the principle of D.C. representation in Congress has broad and bipartisan support. In his message to Congress on the District of Columbia in April 1969, President Nixon expressed the Administration's strong support for D.C. representation in Congress. As the President stated:

"It should offend the democratic sense of this nation that the . . . citizens of its capital comprising a population larger than eleven of its states have no voice in Congress."

Last October, and again as recently as last Friday, President Nixon reiterated his strong concern for voting representation in Congress for the citizens of the District. As part of his message to Congress on September 11 entitled "A Call for Cooperation," the President emphasized his view that the lack of representative government for the people of the District was "one of the truly unacceptable facts of American life." As the President said, "I share the chagrin that most Americans feel at the fact that Congress continues to deny self-government to the nation's capital."

As long ago as December 1952, President-elect Eisenhower spoke eloquently of the need for D.C. representation in Congress. As

he put it, taxation without representation was contrary to the principles of our nation. He specifically expressed his strong feeling that something was basically wrong in America if we tax the citizens of the District and draft their children for military service, but do not give them the right to vote.

VOTING RIGHTS OF RESIDENTS OF THE DISTRICT OF COLUMBIA UPON ITS ESTABLISHMENT AS THE SEAT OF THE FEDERAL GOVERNMENT

The origin of the District of Columbia is found in Article I Section 8, Clause 17 of the Constitution, which provides:

"The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over the District (not exceeding ten Miles square), as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States."

In 1788, the year after the Constitution was ratified, Maryland ceded territory for the District. In 1789, Virginia also ceded territory. From the Maryland and Virginia cessions, the ten-mile square area on both sides of the Potomac River constituting the original District of Columbia was selected.

In the Residence Act of July 16, 1790, Congress approved the territory ceded by Maryland and Virginia as the site for the seat of the Federal Government, and empowered President Washington to engage in all activities necessary for the site to be ready for occupation and use by the Government of the United States on the first Monday of December 1800.

The original ten-mile square area—100 square miles—approved for the Nation's capital contained two municipalities—Georgetown and Alexandria. Georgetown had originally been laid out in 1752. It was incorporated by Maryland in 1789 and had a population of 3,000 persons in 1800. Alexandria had been founded in 1749. It was incorporated by Virginia in 1790, and had a population of 5,000 in 1800.

Prior to the cut-off date of the first Monday of December, 1800, residents of the area included in the District of Columbia continued to vote for Senators and Representatives from their respective States, as well as for the President of the United States and for local officials. In the case of the national election in 1800, for example, voters from the newly laid out city of Washington cast their ballots at Bladensburg, Maryland, and residents of Georgetown and Alexandria voted in their respective cities.

The right to vote in national elections remained in force until the first Monday in December, 1800, when, as announced in an opinion by Justice William Cranch of the United States Circuit Court of the District of Columbia, the exclusive jurisdiction of Congress over the District took effect.

In 1846, at the solicitation of the citizens of Alexandria, aggrieved by the denial of their voting rights and their representation in the Federal Government, Congress ceded the thirty square miles of the Virginia portion of the District back to the State of Virginia. A referendum by the people of the area approved the retrocession by an overwhelming majority of nearly 80%. In 1838, Georgetown had sought retrocession unsuccessfully. Thus, the territory comprising the District of Columbia today is the 70 square miles of the original Maryland cession.

The grievances of the people of Alexandria leading to the demand for retrocession to Virginia were vividly described by Representative Robert M. T. Hunter of Virginia in a speech on the floor of the House during the debate on the retrocession bill. The reporter of the debates summarized Congressman Hunter's speech as follows:

"He spoke of the importance of the retrocession to the people of Alexandria; and depicted, in glowing colors, the blight that had

fallen on that city by reason of her dependence on the General Government; her declining commerce, her premature decay; the desolation which had come upon her, not by the scourge of God, but by the hand of man. He believed that if the boon contemplated by this bill were granted, the blessings of the people of Alexandria and of their posterity would fall upon Congress. If this opportunity was neglected, Congress would be responsible for whatever evils might result." Cong. Globe, 29th Cong., 1st Sess., p. 778.

The echoes of these grievances are still heard today, more than a century later, with respect to the descendants of the residents of the original Maryland territory ceded to the nation. The call for action by Congress is now clear.

EARLY EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

From the beginning of the nineteenth century, there have been a number of strong proponents of full voting representation in Congress for the District of Columbia. One of the earliest advocates was Mr. Augustus B. Woodward, a protégé of Thomas Jefferson, who wrote a series of eight articles and pamphlets on the issue for the *National Intelligencer* between 1801 and 1803. In this pamphlet, entitled "Considerations on the Government of the Territory of Columbia" and signed "Epaminondas," Mr. Woodward described the plight of the citizens of the new District, who were forced to endure the very sort of taxation without representation that had so recently triggered the Revolutionary War. As Mr. Woodward eloquently stated:

This body of people is as much entitled to the enjoyment of the rights of citizens as any other part of the people of the United States. There can exist no necessity for their disenfranchisement, no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny; to mere spontaneous attention for the regulation of their interests. They are entitled to a participation in the general councils on the principles of equity and reciprocity." Considerations on the Government of the Territory of Columbia, Nos. I-IV, Georgetown Museum, 1801-1803.

The other well-known early advocate of D.C. representation in Congress was Theodore W. Noyes, a native Washingtonian and the editor of the *Evening Star* from 1908 to 1946. In 1888, a year after he first came to the Star as an associate editor, Noyes wrote a series of five articles, entitled "Some of Washington's Grievances," in which he strongly urged that the District of Columbia deserved voting representation in Congress. Throughout his life, Noyes devoted much of his time and effort to the cause of D.C. representation in Congress, and he may legitimately be called the father of the contemporary movement for such representation.

Indeed, in large part, the history of the movement for D.C. representation in the late nineteenth century and the first half of the twentieth century is a chronicle of Noyes' activities. Following his famous series of articles in 1888, it is worth noting these additional landmarks:

In 1914, the movement began to gain broader support with the official backing of the Washington Chamber of Commerce, in a report written by Noyes himself.

In 1916, Noyes was the leading witness at the first Senate hearings ever held on representation in Congress for the District of Columbia.

In 1917, the Washington Board of Trade, the Chamber of Commerce, and many other organizations joined to organize the "Citizens' Joint Committee on National Representation for the District of Columbia," with Noyes as Chairman. Noyes held the position until his death, and testified frequently for the Committee in Senate and House hearings.

In 1922, in what stood for many years as the high water mark of the legislation until Congressman Celler's action in 1967, the Senate District Committee favorably reported the D.C. Amendment, with a report closely tracking the testimony Noyes had given.

By 1928, Noyes had become known across the nation for his crusade. Testifying before Congress at the age of 70, he was praised as a man "of invincible determination and unquenchable hope."

In 1946, at his death, Noyes' will created a small trust to continue the movement for D.C. representation in Congress. In the words he used in the bequest, Noyes created the trust because he was "convinced that no other representation is so essential to the welfare of the men and women of my home community." In 1951, the trust published a volume of Noyes' collected writings on the subject, entitled, "Our National Capital and Its Un-Americanized Americans."

The first Constitutional Amendment to be introduced in Congress for D.C. representation was proposed by Senator Henry W. Blair of New Hampshire in 1888, in response to a train of events set in motion by Noyes' articles. On March 10 of that year, the Star carried the fourth article of Noyes' series, describing the unfortunate political plight of the citizens of the District. In the article, Noyes proposed an amendment to provide voting representation in Congress for the District by one Senator and one or more Representatives, according to population. As Noyes stated in his article:

"(The Amendment) would be a compromise between granting only local, qualified suffrage, which is highly objectionable to the District, and consenting to absolute self-government, which involves a surrender of national control over the capital, and to which the United States, as owner of one-half the city . . . would never consent. The wisdom of this course is sustained by all the arguments which go to show that the constitutional power of "exclusive legislation" by Congress should not be hastily yielded, and also by those who maintain that taxation without representation and inequality of citizens before the law should not be allowed to exist.

"The District would be placed in certain respects on a level with the States. Taxed like them, it would have like them a voice in the disposition of the general taxes. It would not, however, stand upon precisely the same footing with them, for the States are subordinated to the general government only in certain defined particulars, whereas the District would be subordinated in all respects . . . Enjoying representation in Congress and participation in the choice of the President, who appoints its local officers, Washington would resemble in its municipal government a city which, after voting for the governor and legislature of a State is managed by a commission appointed by the former and approved by the latter." *Our National Capital and Its Unamericanized Americans*, pp 62-63.

Shortly after publication of this article, Mr. Appleton P. Clark, Sr., a local civic leader, submitted a letter requesting presentation of an amendment to Congress for D.C. representation in Congress and in the electoral college. The amendment was presented by Senator Blair, and was printed in the CONGRESSIONAL RECORD of April 3, 1888 (50th Congress). The amendment was identical to the proposal outlined by Mr. Noyes. On April 5, the Senate Judiciary Committee asked to be discharged from consideration of the amendment for technical procedural reasons, and asked that the amendment be referred to the Committee on Privileges and Elections.

On May 15, 1888, Senator Blair reintroduced the amendment as S.J. Res. 82, and this resolution has come to be accepted as the first constitutional amendment to pro-

vide representation for the District of Columbia in Congress.

During the 51st Congress, two constitutional amendments were introduced in the Senate—S.J. Res. 11 (December 5, 1889) and S.J. Res. 18 (December 9, 1889). On December 19, 1889, both amendments were reported unfavorably by the Senate Committee on Privileges and Elections, with the recommendation that consideration be indefinitely postponed. On September 17, 1890, Senator Blair was recognized and spoke strongly before the Senate in support of the resolutions, but they remained on the calendar without further legislative action.

Although a number of individuals made efforts to promote Congressional representation for the District and a number of constitutional amendments were introduced during the ensuing quarter of a century, the next period of major interest in the proposal did not begin until 1915.

In December 1915, H.J. Res. 37 and S.J. Res. 32 (64th Congress) were introduced by Representative Richard W. Austin of Tennessee and Senator George E. Chamberlain of Oregon. The resolutions were identical, and provided that the citizens of the District should be accorded the status of citizens of a state in the elections of President and Vice President and should be represented in Congress on the same basis.

On February 24 and 25, 1916, and on March 2, 1916, the Senate Committee on the District of Columbia held the first hearings on the proposal. Theodore Noyes, testifying before the Committee, presented the arguments which had been promulgated as early as 1801 in the pamphlets of August B. Woodward.

In his testimony, Noyes emphasized that the arguments made since 1800 for D.C. representation were the same, basically, as those he had presented in his article in *The Star* in 1888. The principle of self-government he said, was so basic to the human dignity and constitutional rights of the people in the District that Congress should act without delay. No further action was taken by the committee, however, and no committee report was filed.

On January 27, 1917, near the end of the 64th Congress, Senator Chamberlain introduced S.J. Res. 196. This proposal is of importance because it was the first of the so-called "permissive" forms of the amendment to be introduced. Under Senator Chamberlain's new amendment, Congress would have been authorized to act by statute to give the residents of the District the status of citizens of a State for the purpose of representation in Congress and election of the President and Vice President. Under the earlier, "mandatory" forms of the constitutional amendment, representation in Congress would have been required by the terms of the amendment itself.

Between 1917 and 1921, fifteen additional resolutions were introduced. The Senate District Committee held a new round of hearings on four of the proposals, and on February 21, 1922, S.J. Res. 133, a permissive form of the amendment, was reported favorably by Senator Wesley L. Jones of Washington, the chairman of the committee. (Senate Report No. 507, 67th Congress). Except for the increased population of the District, the findings and conclusions of the committee are as valid and current today as they were in 1922, 48 years ago. As the committee report stated:

"Yet in the District of Columbia, the seat of the government of the United States, 437,571 Americans, performing justly and honorably all the duties of peace and war, remain without any representation whatever in the Government which rules and taxes them, makes the laws they must obey, and sends their sons to battle.

"What is there in our scheme of govern-

ment that requires that the Capital of the United States should be the one capital among the civilized nations, the inhabitants of which are excluded, deliberately and of set purpose, from all participation in their government?"

The 1922 report of the Senate District Committee was twice reaffirmed in subsequent Congresses without hearing, but no further substantial legislative action was taken. The rising tide of the movement had crested and begun to subside.

At the beginning of this period, various citizen groups had begun to lend increasingly active support to the D.C. representation movement. Outstanding among them was the Citizens' Joint Committee on National Representation for the District of Columbia, which convened initially on November 21, 1917. The Committee was composed of delegates from Washington's principal commercial and civic bodies, and was intended to become a smooth working, powerful organization, operating solely and with one voice for the passage by Congress and ratification by the State legislatures of a constitutional amendment to give representation in Congress for citizens of the District. Theodore Noyes was unanimously elected chairman and he served in that capacity until his death July 4, 1946.

The injustice of taxation without representation, and the participation of District citizens in World War I without the full political status of their comrades, had succeeded in bringing the D.C. representation issue to the forefront. By 1919, the Citizens' Joint Committee had established an essentially all-inclusive membership among local organizations and institutions. The rolls of the committee contained every significant civic and business organization in Washington, such as the Chamber of Commerce, the Board of Trade, the Merchants' and Manufacturers' Association, the Central Labor Union, the Federation of Citizens' Associations, the Oldest Inhabitants Association, the Bar Association, and many others.

The Joint Committee's executive officers had laid effective groundwork by visiting several cities for the purpose of studying their tax structures. The Washington press carried long accounts of progress toward the goal, and out-of-town correspondents kept other localities aware of the movement.

Red stickers were printed emphasizing that the 400,000 inhabitants of the District paid taxes, obeyed Federal laws and went to war, but were forced to remain voteless. Businessmen attached the stickers to their non-local correspondence. The response throughout the country was surprisingly rapid and heartening. Many persons offered support and expressed astonishment at learning that Washingtonians were disfranchised, or that they were required to pay taxes in any form. And yet, although not a dissident note sounded in these early years, no action occurred in Congress.

Then, the civic front began to crack. The organizations making up the Joint Committee began to take differing positions on the amendment they desired Congress to enact. A severe blow fell in July 1919, when racial violence broke out in Washington. The disturbances produced deep political divisions within the city on the issue, causing a loss of faith in the people of Washington throughout the country.

Apathy set in. Although the Joint Committee remained in existence for many years it was never able to generate the strong combination of interests that it had secured in the early years.

Leaders in the District and in Congress sought to maintain the pressure to achieve the goal, but the next major step forward did not come until the action of the House Judiciary Committee in 1967. The time is now at hand to take the final step.

REPRESENTATION OF THE CAPITAL CITY IN THE NATIONAL LEGISLATURE OF FOREIGN NATIONS

The denial of representation in Congress to the District of Columbia stands in sharp contrast to the representation enjoyed by citizens of capital cities governed under a federal system in many foreign nations throughout the world.

Within the British Commonwealth, two of the three nations with national capitals under Federal jurisdiction—Australia and India—grant voting representation in the national legislature to citizens of the capital city. Australia's Capital Territory at Canberra is administered by the Commonwealth Government in much the same fashion as Congress governs the District of Columbia. Canberra, however, unlike the District, has an elected representative in the House of Parliament who has full voting privileges.

India's capital, New Delhi, is administered by the President of India through an Administrator of his designation. Elections of representatives to both the upper and lower Houses of Parliament from the capital city are conducted in the same manner as elections for representatives from the other states and territories in India.

Of the British Commonwealth nations with federal systems, only Pakistan denies representation in the national legislature to the citizens of its capital. At the present time, Pakistan is under military rule. In an order of April 1, 1970, providing for a general election, the President of Pakistan excluded Islamabad, the capital, from the voting district of Punjab, in which the capital is located.

In general, the constitutions of European nations grant no special status to the capital cities, and they impose no limitations on the rights of citizens of the capital cities to vote in national elections. Even in countries with a federal structure, such as Austria, West Germany, Switzerland, and the Soviet Union, the electoral codes give the capital cities equal footing with other electoral districts, determined on the basis of population.

Similarly, in three of the four federated republics in Latin America in which a Federal District has been established—Argentina, Mexico and Venezuela—the citizens of the capital city enjoy voting representation in the national legislature.

Only in Brazil are the citizens of the capital city, Brasilia, denied such voting representation. And even in Brasilia, the circumstances are unique and reminiscent of the District of Columbia at its origin. Until 1956, Rio de Janeiro was the capital of Brazil, and its citizens enjoyed full voting representation in the national legislature. When the capital was transferred to Brasilia in 1956, the capital was a "new city," like Washington in 1800, carved out of wilderness territory, with a "population" expected to consist essentially of the members of the government and the national legislature. As in the case of Washington, the founding fathers in Brazil simply did not anticipate the rapid growth of their new capital city.

Indeed, half a century ago, in the first committee report of the United States Senate urging representation in Congress for the District of Columbia, the Senate District Committee emphasized the irony of the disfranchisement of Washington residents compared to the citizens of the capital cities of Brazil and other Latin American nations.

As the committee stated in 1922:

"National representation of the District will remove from the Nation the shame of impotency.

"It will proclaim to the world that the great Republic is as devoted to the principles of representative government and as capable of enforcing them as other republics with capitals in nation-controlled districts, like Mexico, Brazil, and Argentina. These nations have not found themselves impotent to give

full national representation to the people of their capitals.

"It will proclaim to the world that the people of Washington are as fit to participate in national representative government as the people of Rio de Janeiro, Buenos Aires, and Mexico City. Washington will cease to be the only capital in all the world whose people, slurred as tainted or defective, are unworthy to enjoy the same national representation as that enjoyed by all other cities of the Nation."

The conclusion is inescapable. In nation after nation throughout the world, the citizens of capital cities are accorded the dignity and respect of representation in their national legislatures. Surely the citizens of the Capital of the United States deserves no less.

Mr. EAGLETON. Mr. President, as chairman of the District Committee, I wish to add my support to Senator KENNEDY's proposed amendment granting to the District of Columbia full congressional representation.

Having spent the past 2 years as a member of the District Committee, I am only too aware of how deeply Congress intrudes into the essentially local affairs of the District. It is the only jurisdiction in the country for which Congress sets taxes on groceries and dry cleaning. It is the only jurisdiction in the country for which Congress sets salaries for teachers and policemen. It is the only jurisdiction in the country for which Congress reviews laws relating to snow and ice removal. Yet, for all of that, it is the only jurisdiction with no voice in Congress.

I am fully aware that the people of the District will soon have their first opportunity to send a spokesman to the House of Representatives. I view this nonvoting delegateship as a step forward—but I believe it can only be viewed as an interim measure.

The District is home to nearly 760,000 Americans—a population greater than that of 10 of our States. Yet each of these States has two Senators and either one or two Representatives—a total of 35 voices in the Congress. The District has no one—and soon it will have only one man, without a vote, to represent its interests on Capitol Hill.

The people of the District carry the same responsibilities of citizenship as other Americans. They are subject to the draft and they pay income taxes. They care about education, public health, crime, and inflation. They are affected, like everyone else, by all aspects of our foreign and domestic policy. Yet they alone have no voice in the making of this policy.

The question before Congress at this point is not home rule. Much to my regret, even if this amendment to the Constitution passes, the people of the District still will not be able to choose their own local officials. We are concerned now solely with the question of representation in the Congress.

It is appropriate, in my view, that we look at this question together with the proposed amendment to extend the franchise to 18-year-olds for all elections. In broad terms we are concerned about extending the franchise to those who have a stake in our Government but who have had no voice in its makeup. Surely that

inequity is as true of District residents as it is of our youth.

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

Mr. EAGLETON. I am pleased to yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. I commend the Senator from Missouri for his comments. As the chairman of the Senate District Committee, I think he and the members of his committee have a deep understanding of the need for this amendment. As he has indicated in his statement, he and his committee are dealing in detail with many matters of the most basic and fundamental importance to local government and to representative government. I believe his support for this amendment is of great significance and consequence.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I shall be happy to yield my 3 minutes to the able Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. EAGLETON. I thank the Senator from West Virginia. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator for his comments and support. I think he has pointed out that this is a matter which is long overdue. There is no legitimate reason why the people who live in the District of Columbia ought to be denied the kind of representation which the rest of the American people take for granted. This is certainly an idea whose time has come. Indeed, as the Senator has stated, the idea is long overdue. I look forward to working with the Senator in this effort, which I think is a matter of great urgency.

Mr. EAGLETON. Mr. President, I thank the Senator from Massachusetts. He has carried on a noble tradition of his family insofar as his interest in and concern for the people of the District of Columbia is concerned. His brother, the late President John F. Kennedy, served as an active member of the House District Committee during his tenure in the House of Representatives. The late Senator Robert Kennedy was a member of the Senate District Committee during his tenure in this body. Senator EDWARD KENNEDY of the Commonwealth of Massachusetts has carried on that interest. Although not a resident of the District of Columbia, the Senator has a strong feeling for the residents of the District and a concern for their problems. It is my pleasure to join the Senator in this battle for a constitutional amendment which would provide some measure of equity insofar as representation in the Halls of Congress is concerned to the people of the District of Columbia.

Mr. KENNEDY. I thank the Senator. In closing, Mr. President, it is worth pointing out that we in this country are fighting 10,000 miles away to provide representative government for the people of South Vietnam. This amendment is our opportunity to provide the same thing—representative gov-

ernment—right here at home, for the residents of the District of Columbia.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, how much time remains of the period designated for the transaction of routine morning business?

The PRESIDING OFFICER. Five minutes.

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. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF HEARINGS EVALUATING FUNCTIONS AND POLICIES ON THE U.S. ADMINISTRATION ON AGING

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging—in cooperation with the Subcommittee on Aging of the Senate Committee on Labor and Public Welfare—will conduct joint hearings on March 25, 29, and 30 to take testimony related to a joint evaluation of the functions and policies of the U.S. Administration on Aging.

As chairman of the committee, I see a clear need for an inquiry into issues that have arisen since the AOA was established by enactment of the Older Americans Act in 1965.

As chairman of the subcommittee, the Senator from Missouri (Mr. EAGLETON) is also a member of the Committee on Aging. We have conferred and reach the conclusion that such issues could best be explored through a joint inquiry.

Among the matters that will receive attention:

First. Potential effects of the cutbacks for AOA funding as expressed in the new budget requests submitted this year.

Second. Plans for the White House Conference on Aging and the pace at which preparations are now proceeding.

Third. The effects of recent reorganizations within HEW upon the Administration on Aging, in view of congressional expressions of intent before, during, and after enactment of the Older Americans Act of 1965.

Fourth. Discussion of whether the Older Americans Act should be extended when it expires in 1972, or a new agency should be named to succeed the Administration on Aging.

In regard to the cutbacks mentioned above, a few days ago I addressed the Senate about the devastating effects that such reductions would have on programs which deliver services, or provide training, or demonstrate new techniques of meeting the needs of older Americans.

On the same day, the Senator from Vermont (Mr. PROUTY), the ranking Re-

publican member of the Committee on Aging, took issue with the proposed reduction in funds. As he said:

The needs of older Americans, and hopes created by the unanimous enactment of the Older Americans Act in 1965, are such that there should be an immediate reconsideration of these funding cuts.

Additional statements, similar in nature, were made by the Senator from New Jersey (Mr. WILLIAMS), former chairman of the Committee on Aging and now chairman of the Committee on Labor and Public Welfare; and the Senator from West Virginia (Mr. RANDOLPH), chairman of the Subcommittee on Employment and Retirement Incomes of the Committee on Aging, and chairman of the Committee on Public Works. I have been informed that several other Senators may soon issue statements on the AOA budget.

Mr. President, the concern about the future of the Administration on Aging is not centered solely upon funding problems, immediate as those problems may be. Within recent years several actions taken by the executive branch, without consultation with Congress, have led to a growing conviction among many Members of Congress that the AOA is gradually being downgraded in its role and in practical effectiveness.

In 1967, the AOA was transformed into a unit of a new "umbrella" agency, the Social and Rehabilitation Service, despite prior congressional direction that the AOA Commissioner should have high visibility and direct lines of communication with the Secretary of Health, Education, and Welfare.

In 1969 and in 1970, the executive branch failed to request funds authorized by the Congress for such purposes as a retired senior volunteer program or adequate funding for the White House Conference on Aging.

And in 1970, two entire titles of the Older Americans Act—one related to training and one related to research and development—were taken away from the direct administration of AOA and put under the direction of the Social and Rehabilitation Service.

Perhaps, as some legislators and specialists in aging have suggested, the Older Americans Act did not establish the kind of agency really needed to fulfill the purposes of that act as expressed in its preamble. The Older Americans Act was a compromise between those who wanted a Cabinet-level agency with fixed responsibility for program operation and those who wanted a commission or some such mechanism to encourage existing Federal units to devote adequate attention to the elderly in all appropriate programing.

But now the compromise has been compromised. In view of the fact that the Older Americans Act will expire in 1972, Congress should evaluate the AOA and what has become of the Older Americans Act during the last 5½ years.

Closely related to the overall question of the effectiveness of the AOA is the conduct of the White House Conference on Aging, now scheduled for the last 2 days of November and the first 2 days of December.

It is clear, I think, that—if the very agency which has been assigned the responsibility of directing that conference is in trouble—then the conference, too, may fall far short of the goals set for it by Congress in legislation enacted more than 2 years ago.

For these reasons and others to be explored at the hearing, it is essential for Congress to have all the facts before making decisions related to the extension of the Older Americans Act and actions that may be necessary to assure the success of the White House Conference.

In conclusion, I wish to thank Senator EAGLETON for his cooperation and concern. By making this a joint inquiry, he is broadening its congressional base and providing a direct channel into whatever legislative activity may result.

PROPOSED CUTS IN OLDER AMERICANS ACT FUNDING

Mr. EAGLETON. Mr. President, I wish to add my voice to those of others who have expressed concern about proposed

reductions in funding for programs under the Older Americans Act.

For fiscal 1972, the administration proposes to cut funds for these programs back to \$29.5 million from the \$32 million appropriated this year.

This includes a cut of \$3 million for the foster grandparents program and a reduction of \$2.15 million for research and training projects.

But of even greater concern is the \$3.65 million reduction proposed for title III community grants. This activity represents the heart and soul of the Older Americans Act—a Federal-State-community cooperative effort to expand the services available to senior citizens.

Although this has been a very successful program, it has been cut back from its fiscal 1969 level of \$14.5 million to \$9 million in the last 2 years. Now the administration proposes to cut it back still further to only \$5.35 million in fiscal 1972.

My State of Missouri, which was allocated \$202,619 this year, would receive only \$120,374 next year—a 40-percent reduction.

Early R. Welty, director of Missouri's

Office of Aging, has written to me as follows:

The reduction of funds for the Title III program in Missouri will result in a rapidly declining system of services for older people which was developed at a level of \$394,684 in fiscal 1969 to a drop of \$207,000 in fiscal 1970, \$202,619 in 1971, and an administrative request for \$120,374 for 1972. The request for next fiscal year is a death notice for the grant program. At this rate of decline, the end is approximately two years away.

We would be able to fund two new programs next year, and none the following year if we receive the amount requested by the administration. This is based on the assumption none of the communities request fourth year funding.

It is our conviction the programs developed under Title III have value and are not wasteful of tax monies. We feel the grant program has been convicted to death without adequate trial.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a list of Missouri projects under title III of the Older Americans Act.

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

DESCRIPTION OF TITLE III PROJECTS IN MISSOURI OLDER AMERICANS ACT—OFFICE OF AGING, DEPARTMENT OF COMMUNITY AFFAIRS, STATE OF MISSOURI

Location	Project number and title	Sponsoring organization	Project period	Description
St. Louis	1001—Information and referral service for older persons.	Health and Welfare Council of Metropolitan St. Louis.	Feb. 1, 1967 to Feb. 1, 1970.	An information and referral service for the aging operated in cooperation with the city of St. Louis.
Columbia	1002—Older Americans Klub	Boone County Association for Mental Health	do.	A multipurpose activity center for the elderly in the public housing community space.
St. Louis	1003—Seminar on new dimensions in services to the aging (terminated).	Jewish Center for Aged, St. Louis	Jan. 1, 1967 to Jan. 1, 1968.	A training seminar for policy and decision makers in the community on up-to-date concepts in services for the elderly.
Lee's Summit	1004—Lee Haven service center	American Association of Retired Persons, Lee's Summit Chapter.	Feb. 1, 1967 to Feb. 1, 1970.	An activity center with social and recreational activities for the aged within the community in a housing project for the elderly.
Clayton	1005—Mobilizing a State's scientific and educational resources in behalf of services and programs for the State's aging population (terminated).	Gerontological Society, St. Louis	Feb. 1, 1967	A study of training and research needs and resources in aging for Missouri.
St. Joseph	1006—Comprehensive planning program for the elderly in the St. Joseph area (terminated).	Community Welfare Council	Feb. 1, 1967 to Oct. 1, 1967.	Development of a comprehensive plan for the expansion of existing services for the aging.
Jefferson City	1007—Missouri Association of Licensed Nursing Homes education program.	Missouri Nursing Home Association	Oct. 1, 1967 to Oct. 1, 1970.	A comprehensive program of education for nursing home personnel in the State.
Trenton	1008—A multi-county development program for the aging.	Green Hills Regional Planning Commission, Bethany.	do.	A program to assist in the development of local, county, and regional services and facilities for the aging.
Kansas City	1009—Coordinated diversional activities program.	Swope Ridge Nursing Home, Kansas City	do.	Development of a coordinated diversional activities program in a comprehensive long-term care facility and the development of "How To Do It" manual.
Van Buren	1010—Senior citizens center (terminated)	Carter County Senior Citizens, Inc., Van Buren	do.	An activity center with social, recreational, and craft activities.
Poplar Bluff	1011—Senior citizens service center	Altrusa Club of Poplar Bluff	do.	An activity center with social and recreational activities in a housing project for the elderly.
Kansas City	1012—Easter Seal homecraft program for the aged.	Jackson County Easter Seal Society	do.	A demonstration training project for elderly in arts and crafts and the development of marketing outlets.
Do	1013—Jackson county resident aide program (terminated).	Jackson County Home for the Aged	do.	Development of a "New Careers" training in work with the elderly utilizing a home for the aged.
Lexington	1014—Health related social services for the aging in rural and small town areas.	University of Missouri, School of Social Work	do.	Development of social services including placement of trained social work aides and students in physicians' offices in rural areas to give services to elderly.
St. Louis	1015—Senior citizens safety training program (terminated).	Safety Council of greater St. Louis	Sept. 1, 1967 to Sept. 1, 1968.	A series of training workshops for agency personnel on utilization of safety measures for older persons both at home and in public.
West Plains	1016—Planning for the felt needs of senior citizens (terminated).	Southeastern Ozarks Regional Planning Commission, West Plains.	July 1, 1967 to July 1, 1968.	Development of a plan for the elderly through an assessment of the needs of older people in a multicounty area.
St. Louis	1017—Cardinal Ritter institute senior center	Cardinal Ritter Institute, St. Louis	Apr. 1, 1968 to Apr. 1, 1971.	An activity center with recreation, social and educational services for the aged within the community in a housing project for the elderly.
Do	1018—Elderly neighborhood services (terminated).	Human Development Corporation of Metropolitan St. Louis.	May 15, 1968 to Sept. 30, 1968.	A project focused on using older persons to assist in carrying out summer programs for youth and other elderly persons.
St. Joseph	1019—Focus on the aging	Community Council	Apr. 1, 1968 to Apr. 1, 1971.	Implementation of a plan for services for the elderly based on plans developed through project No. 1006.
Jackson	1020—Project moneywise-senior	Curators of the University of Missouri	Oct. 1, 1968 to Sept. 30, 1971.	A training project to assist older citizens in gaining maximum returns from their limited income.
Do	1021—Home management systems (terminated).	Catholic Family and Community Services, Kansas City.	July 1, 1968 to June 30, 1969.	Project focused on providing services to older people who are in need of assistance in their own homes.
Nevada	1022—Vernon County information and referral center.	Vernon County Council on Aging	July 1, 1968 to June 30, 1971.	An information and referral service for the aging operated in cooperation with the Vernon County Council on Aging.
Springfield	1023—Homemaker project	Visiting Nurse Association of Greene County	Sept. 1, 1968 to Aug. 31, 1969.	A project to provide homemaker service to older people.
Kansas City	1024—Project communication	Kansas City College of Osteopathy and Surgery	Oct. 1, 1968 to Sept. 30, 1969.	A project designed to facilitate communication between the medical profession and a referral service for older people.
Do	1025—City-county office of aging	Kansas City Health Dept.	Oct. 1, 1968 to Sept. 30, 1971.	A city-county office of aging to develop a system for adequate services to older people and to coordinate existing services.
Bethany	1026—Harrison County homecraft shop	Harrison County Council on Aging	Feb. 1, 1969 to Jan. 31, 1972.	A project to provide educational, social, and recreational activities for the Harrison County elderly.
Springfield	1027—Springfield parks recreation center and program for senior citizens.	Springfield Public Park Board	Apr. 1, 1969, to Mar. 31, 1972.	A project designed to provide an activity and service program for older persons in the Springfield area.
Kansas City	1028—Kansas City area senior citizens month project.	American Assoc. Retired Persons/Natl. Assoc. Retired Teachers, Kansas City.	April 1, 1969 to July 30, 1969.	A senior citizens month project designed to develop public awareness and interest in the well-being of senior citizens.

DESCRIPTION OF TITLE III PROJECTS IN MISSOURI OLDER AMERICANS ACT—OFFICE OF AGING, DEPARTMENT OF COMMUNITY AFFAIRS, STATE OF MISSOURI

Location	Project number and title	Sponsoring organization	Project period	Description
Camdenton	1029—Camden County senior citizens center	Lake of the Ozarks Camden County Senior Citizens Assn.	July 1, 1969 to June 30, 1972.	An activity center with recreational, social, and educational services for the aged within a retirement community.
Branson	1030—Tri-Lakes adult community center	Tri-Lakes Adults, Inc., Branson	do	Do.
Columbia	1031—Library services to the Aging	Daniel Boone Regional Library, Columbia	do	A project focused on the delivery of library services to older persons in their homes and institutions within a 3-county area.
Sikeston	1032—Heritage house	First United Methodist Church, Sikeston	Oct. 1, 1969 to Sept. 30, 1972.	An activity center with recreation, social, and educational services for the aged within the community in a housing project for the elderly.
St. Louis	1033—Mobile social service for the isolated elderly	Yeatman District Community Corp., St. Louis	July 1, 1969 to June 30, 1972.	A social service delivery system for isolated elderly persons.
Monticello	1034—Rural multi-county service and education program for the elderly	Curators of the University of Missouri	do	An activity center with recreation, social, and educational services for older people within a 3-county area.
Kansas City	1035—Senior citizens community visitors	Inner City Health Agency, Inc., Kansas City	do	A project designed to provide health related services to homebound older persons.
Poplar Bluff	1036—Twin Towers meals for older citizens	Community Nutrition Corp., Poplar Bluff	Oct. 1, 1969 to Sept. 30, 1970.	A meals program based on a public housing project designed to deliver nutritious, attractive low-cost meals to older persons living within the county.
Trenton	1037—Green Hills HRC mobile kitchen	Green Hills Human Resources Corp., Trenton	July 1, 1969 to June 30, 1972.	A project designed to deliver meals to older persons in a 9-county area through use of a mobile kitchen.
Kansas City	1038—YWCA inner city senior center	Young Women's Christian Association of Kansas City, Deramus Branch.	do	A multipurpose center located in the inner-city area to help meet the needs of older inner-city residents.
St. Louis	1039—Older Adults Special Issues Society, Inc.	Older Adults Special Issues Society, Inc., St. Louis.	Apr. 1, 1970 to Mar. 31, 1973.	A program to coordinate existing services for the aged and to stimulate the development of new services for older St. Louisans.
St. Joseph	1040—The Bee Hive	Wesley Community Center	May 1, 1970 to Apr. 30, 1973.	A multipurpose activities center for senior citizens.
Columbia	1041—Program resources for older people	Program Resources for Older People, Inc., Columbia.	Aug. 1, 1970 to July 31, 1973.	A multipurpose activity center for the elderly in the public housing community space.
West Plains	1042—South Tower senior center	Business and Professional Women's Club, White Plains.	July 1, 1970 to June 30, 1973.	A program to provide a central source for program resources for older people.

Mr. EAGLETON. Mr. President, the first casualty in Missouri of this restricted funding could be the Cardinal Ritter Institute Senior Center which serves some 800 elderly people in the Blumeyer Housing project in St. Louis. Third-year funding for this project terminates on March 31.

The Older Americans Act Amendments of 1969 authorized funding of selected projects beyond the third year. The Institute is asking for an additional year of funding at \$25,000 to match local in-kind contributions valued at \$45,000. Lack of funds, however, has rendered meaningless the fourth-year funding authorization in the 1969 amendments.

Unless \$25,000 is forthcoming from some source, this lifeline for 800 elderly people in St. Louis may be broken. I hope that somewhere in a \$200 billion-plus Federal budget, this small sum can be found.

Mr. President, I ask unanimous consent that a description of the Cardinal Ritter Institute Senior Center, furnished by the Reverend Robert P. Slattery, Director of the Institute, be printed at this point in my remarks.

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

CARDINAL RITTER INSTITUTE SENIOR CENTER

At the invitation of the St. Louis Housing Authority, Cardinal Ritter Institute initiated a Senior Center Program in the two high rise buildings designed for the elderly in the Blumeyer Housing Project. The Center is located in two sites at 3210 Easton Avenue and 3330 Page Boulevard respectively.

A multi-purpose Senior Center is a place to which older people living in the area can go to enjoy the companionship of their peers, and to participate in activities and services that are meaningful to them in their later years of life. The Senior Center stresses the maintenance and enhancement of the physical, social and emotional well being of the older person. The unique feature of a multi-purpose Senior Center is its concern for the older person as a total person in all aspects of his life. This concern is expressed in a wide range of individual and group services and activities.

During the past three years, under a grant from the Missouri Office of Aging which expires March 31, 1971, the Center followed the program pattern of *leisure time activities, community service activities and professional services*, for older poor people.

Approximately 200 activities have been scheduled monthly. These include adult education classes, parties, outings, lectures arts and crafts activities, musical programs, dances, games, movies, etc. Professional social and health counseling services are also provided as well as opportunities for volunteer community service. Some 800 poor elderly citizens are enjoying and benefitting from this varied program. Indeed, for many of these people hindered by the limitations of advanced age and inadequate income, the Center provides their only source of social activity. The quality of life for these people would be significantly lessened without the programs of the Center.

The average age of the people served at the Center last year was 71.9 years. 35% of these people were male and 65% female. 85% of them were Protestant and 15% Catholic. 92% of the Center membership is Negro and 8% White. 85.3% of the people were over 65 years of age. All of these people are of the low income group.

Besides the Center core staff of a Project Director, Program Director, and two Activities Supervisors, the Center has arranged for staff from other agencies to help with the 200 activities programmed every month. The St. Louis Department of Parks, Recreation and Forestry provides recreation specialists. The St. Louis Board of Education has assigned adult education teachers to teach four classes a week. The St. Louis Public Library staffs the two Center libraries. St. Louis University School of Social Service places a graduate student at the Center two days a week. The Older Adult Special Issues Society utilizes the Center staff to supervise three senior aides at the Center.

In short, because of a variety of meaningful programs and the commitment of various community agencies, the Cardinal Ritter Institute Senior Center has measurably improved the quality of life of more than 800 senior citizens.

We feel that the Center program is a good investment for any funding source because of the \$45,000 of contributed services which are assured through the services of the various agencies involved at the Center. This means that, with an investment of \$25,000, the community would receive over \$70,000

worth of service. But without the \$25,000 the entire package of services will be jeopardized.

Mr. EAGLETON. Finally, Mr. President, as chairman of the Subcommittee on Aging of the Committee on Labor and Public Welfare, I intend to examine closely the justifications—or lack of them—for these reductions in funding. I do not believe we should attempt to economize at the expense of older citizens who so desperately need the services that Congress intended the Older Americans Act to provide.

DOD PLANS 10-POINT PROGRAM TO END DOCTOR DRAFT

Mr. GOLDWATER. Mr. President, 3 weeks ago I presented remarks in the Chamber calling for the establishment of a comprehensive military medical program. At that time, I mentioned four essential features which should be included in such a system in order to assure its success. My plan suggested eliminating the doctors' draft, increasing compensation for military doctors and dentists, assuring the continued provision of high quality medical care to military patients, and developing a self-supporting capacity for the military services whereby they can educate some percentage of their future medical officers at a medical institution of their own.

After making these suggestions, I have learned they are on all-fours with a comparable and much expanded program being developed by the Department of Defense itself. This information came to my attention recently when I was reading an excellent article in the distinguished *Defense* weekly, the "Armed Forces Journal," examining the same subject. The article, entitled "DOD Plans Ten-Point Program To End Doctor Draft," outlines in clear detail the depth of thinking which is underway at the Pentagon on the subject of improving military medical careers and health services.

The Journal describes four points which require legislative action and six

which can be accomplished through administrative action. I am pleased to note that three of the four legislative recommendations have been provided for in legislation which I and other Members of Congress already have introduced, and I earnestly hope the Pentagon can get behind our proposals after offering any recommended improvements which might come to mind.

According to the Journal, Assistant Secretary of Defense, Dr. Rousselot, has proposed establishment of new "competitive" rates of compensation for all military health care personnel, creation of a military medical college, increases in the military medical scholarship program, and increases in the number of star-rank billets for military medical officers.

As I mentioned in February, the first proposal would be implemented in great part by a provision of the volunteer military legislation which the Senator from Oregon (Mr. HATFIELD) and I have drafted. It is true the DOD package would extend the salary increases to all military health care professionals, not solely doctors, dentists, and veterinarians; and this addition is an excellent idea which might be easily incorporated in the Hatfield-Goldwater bill.

Also, the Senator from Oregon and I have included in our legislation a provision expanding the medical scholarship program operated in exchange for obligated military service. The Department of Defense will submit legislation providing for at least 2,000 medical scholarships annually supported by an appropriation of \$20 million in the 1972 fiscal year budget. This sum is less than the amount programmed for the same purpose in my own legislation, but is an excellent and necessary step forward.

The third point urged by Assistant Secretary Rousselot is actually a concept long advocated by the distinguished chairman of the House Committee on Armed Services, Representative F. EDWARD HÉBERT. Congressman HÉBERT has been pressing for creation of a Federal medical school for the military services since as far back as 1949. In order to generate some steam for the idea on this side of Capitol Hill and not in any way to detract from keeping the authorship where it belongs—with Mr. HÉBERT, I introduced a similar measure in the Senate last month.

The only difference between our bills is that mine includes provisions requiring the Secretary of Defense to study and report on the feasibility of later creating a medical college at one of the large military hospitals and to expand the current program of premedical courses offered at the military service academies. These are suggestions which I feel are reasonably related to the military medical college proposal and which deserve a fair hearing at the same time that plan is acted upon. If they would in any way impede the progress of the bill's primary purpose, I would, of course, promptly withdraw them.

Mr. President, the "Armed Forces Journal" article warrants a reading by all Members of Congress. In order to make it easily available, I ask unani-

mous consent that it be printed in the RECORD.

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

DOD PLANS 10-POINT PROGRAM TO END DOCTOR DRAFT

(By James D. Hessman)

The Office of the Assistant Secretary of Defense for Health and Environment is preparing a ten-point package of proposals designed to eliminate the doctor draft, improve the attractiveness of military careers for health care personnel, and, not incidentally, provide better, quicker, and more complete medical care for active-duty and retired military personnel and their dependents.

Four of the 10 OASD (H&E) proposals will require legislative action; some may face strong in-house opposition from the military line; several could have a major impact on U.S. civilian health care programs.

In a Journal interview, Assistant SecDef (H&E) Dr. Louis M. Rousselot listed the 10 points as follows (not necessarily in this order of priority):

- (1) Establishment of new "competitive" rates of compensation for all professional health care personnel.
- (2) Establishment of a Uniformed Services University of the Health Sciences.
- (3) An increased number of star-rank billets for military medical professionals.
- (4) An increased military medical scholarship program.
- (5) An independent military medical R&D budget.
- (6) Personalized career planning for military medical professionals.
- (7) An improved promotion system for military medical professionals.
- (8) A reduction in the "payback time" required of MDs who receive their specialist training in military medical facilities.
- (9) Continuation of the recently liberalized continuation pay program for critical-skill MDs.
- (10) Establishment of a separate medical command system.

Dr. Rousselot said the first four points listed would require legislative action; the other six, some of which already have been implemented, at least in part, could be accomplished through administrative action.

THE 7-YEAR POOL

The Defense Department currently has 15,050 physicians and 6,500 dentists to provide medical and dental care for three million active-duty members, a retiree force now numbering an estimated 800,000 persons, and active-duty and retiree dependents—very few of the latter three groups receive any dental care, however, and many receive only limited medical care from active-duty medical care resources. By 30 June 1972 the Department's active-duty MD/DD requirements will be reduced to an estimated 14,000 physicians and 6,000 dentists.

Despite the reduction in requirements, the Administration's plan to end the draft and move to an all-volunteer force makes it particularly important at this time that the Defense Department take whatever steps are necessary to improve the attractiveness of military medical careers.

Even if the draft is extended for two years, as the Administration has proposed, and as Dr. Rousselot and most other Pentagon and congressional officials believe it will be, the handwriting is on the wall for the doctor draft itself, which for the past 13 years has been the Department's authority for filling its medical, dental, and other health care needs. The proposed abolition of student deferments, combined with the lottery system which gives most young men a one-time-only draft vulnerability at age 19,

means that there is now, at best, only about a seven-years' supply of persons already on students' deferments who will be liable to the doctor draft by the time they complete their medical education.

The doctor draft law, which applies to all health professions, has been in use on an uninterrupted basis since 1950. Initially it included all doctors up to age 51. In 1957, the original doctor draft law was permitted to expire and military medical needs were thereafter met under authority of the general draft, amended as follows:

"Provided further that nothing herein shall be construed to prohibit the President under such rules and regulations as he may prescribe . . . for providing for the selection or induction of persons qualified in needed medical, dental or allied specialist categories pursuant to requisitions submitted by the Secretary of Defense."

The effect of the amended draft law was that any individual who obtained a student deferment prior to age 26 became liable for military service until age 35. Dr. Rousselot has stated publicly that "Without it [the doctor draft] we could not have survived until today; without a similar provision we will not be able to meet our needs tomorrow."

THE 10-POINT PACKAGE

Here, as spelled out by Dr. Rousselot and other OASD (H&E) officials, is a brief rundown on each of the proposals in the ten-point package.

(1) A new competitive compensation plan for all military medical health professionals (in addition to the doctors and dentists, the Services also have on board a combined total of 10,370 nurses and 818 veterinarians, as well as 996 BSC [Biomedical Science Corps], 7,867 MSC [Medical Service Corps], and 483 AMSC [Army Medical Specialist Corps] officers)—The Services have, through use of such devices as proficiency pay, variable reenlistment bonuses, flight and submarine pay, etc., been steadily moving through the years toward a "supply and demand" compensation policy, particularly in critical skill shortage areas. More importantly, perhaps, the basic concept underlying the all-volunteer force proposal is to increase military pay sufficiently to make it competitive with pay scales in the civilian economy.

Military MDs already earn appreciably more than most other officers of the same age and of the same rank—a fact sometimes resented by the military line. But the simple fact is that, as survey after survey has proven, doctors have a higher per capita income than any other professional group in the U.S. economy. Career military MDs earn considerably less than their civilian contemporaries and thus, despite earning more than their military line contemporaries (which, from an economic viewpoint, may be an irrelevant consideration in any case), are making a substantial financial sacrifice by remaining on active duty beyond their obligated service.

Recognizing this point, the Gates Commission on an All-Volunteer Force (Journal 14 Mar. 1970) recommended a "new medical pay plan" which would increase a medical officer's total salary to \$22,000 by his sixth year of service, with annual or bi-annual increases thereafter raising the total salary level, for a colonel with 22 years' service, to \$39,955.

The current H&E package proposes implementation of the Gates Commission proposal (or a reasonable modification thereof), and would extend the "competitive" salary schedule to all other military health care professionals—for whom the Commission recommended "similar but somewhat less severe" pay hikes.

(2) Establishment of a Uniformed Services University of the Health Sciences—This move has long been advocated by House Armed Services Committee Chairman F. Edward Hé-

bert (D-La.), and has again been suggested by him this year in a bill (H.R. 2) introduced at the start of the current session of Congress.

Dr. Rousselot, unlike some of his predecessors, favors enactment of the Hébert proposal and is, in fact, enthusiastic about a new provision added by Mr. Hébert to establish, not one, but five or more such Health Science Universities (see end of article) for detailed analysis of the Hébert bill, on which hearings are scheduled to begin in June).

(3) Increasing the number of flag and general officer billets for military health care professionals—The Army, Navy, and Air Force presently have a combined total of 49 Medical Corps officers serving in the rank of brigadier general and above. Only two—BGen Walter R. Tkach, USAF, the President's physician, and RAdm Rufus J. Pearson, attending physician to the Congress—are primarily practicing physicians.

Military medical career patterns as they are now structured necessarily channel most of the more senior MC officers into administrative and managerial jobs, for which reason—and because of present limitations on Medical Corps star-rank officers—there is little hope for advancement for the vast number of military doctors who want to continue in clinical medicine. (Such great practicing physicians as Doctors Michael De Bakey, Paul Dudley White, Denton Cooley, and Christian Barnard—not to mention Benjamin Spock—would have found it impossible to rise above the rank of colonel had they chosen to practice medicine in the U.S. military.)

Dr. Rousselot believes that shutting off Medical Corps promotions at the O-6 level poses a most serious problem in retaining the best physicians and medical investigators on active duty, and therefore thinks "a certain number" (unspecified) of star-rank billets should be provided to enable the Services to keep their top-notch medical men on active duty. He thinks the extra Medical Corps star-rank billets should not come, however, at the expense of the Line, but should be granted as an exception to the current legal (and so-called "Stennis ceiling") limitations on total flag and general officer ceilings.

(4) Increasing the medical scholarship program—The Department currently is authorized a total of 458 scholarships, and wants an initial increase to 2,000—75% of which would be allocated for physicians, and 25% to dentists. The program would later be increased in gradual steps, according to H&E officials to 5,000 spaces—4,000 for medical and 1,000 for other health fields.

Legislation requesting the proposed first increase already has been sent to Congress for hearings this session. Congressional reception of the proposal has been so far sympathetic, and it is likely that at least a partial increase will be granted. Because of the still climbing cost of medical and dental education, it can be confidently predicted that there will be no shortage of applicants for the scholarship program even if the doctor draft is ended.

(5) An independent military medical R&D budget—In the form of separate line budget items for clinical investigation. All present military medical research money comes under the overall jurisdiction of the Director of Defense Research and Engineering. H&E officials believe the Defense Department should train its own medical investigators, and to do this should fund a program big enough and challenging enough to permit retention of the many medical investigators and researchers needed to work on the literally worldwide spectrum of diseases and occupational hazards to which U.S. military men and women are exposed.

(Not always appreciated is the fact that military medical researchers have been in

the forefront of numerous medical advances which have improved the health and well being of the civilian as well as the military population. Dr. William Beaumont's work in gastroenterology, for example, was fundamental to a number of breakthroughs in that field, and Dr. Walter Reed's work on yellow fever is well known to every American schoolboy.)

(6) Personalized career planning—This is a goal which military health care professionals share with all other military specialist groups, and, indeed, with all Service personnel of whatever rank, grade, designator, MOS, and specialty.

Because the military medical community is relatively small in number, however, and because a relatively high percentage of billets are set aside for medical specialists in various categories—cardiologists, surgeons, pediatricians, etc.—the programming of career patterns on an individual basis may be easier to achieve for Medical Corps officers than for personnel in other programs.

The lack of opportunity to participate in a member's own career development, and the "indifference of career management personnel" toward long-range development of an individual officer's career have been cited in the past as important factors contributing to the inability of the Medical Corps to retain officers on active duty.

The personalized career planning program now under study would, among other things: (a) provide an improved orientation and indoctrination program for each Medical Corps officer entering active duty; (b) evaluate first-term MC officers for retention, and advise potential career officers of the career patterns and training programs open to them if they remain on active duty; (c) establish a "Career Management Information System" through which all career officers would be advised periodically—"at least monthly"—of training opportunities (medical conventions, internships, residencies, etc.) and career assignments newly available; and (d) permit each individual career officer to participate in development of his own career pattern, in which alternate career paths would be indicated at appropriate promotion points.

(7) An improved promotion system for Medical Corps officers—This has been accomplished in part. Medical Corps promotion quotas no longer come under overall Line quotas, as previously, but are established as a separate entity (except for flag and general officer ranks). In addition, the vast majority of Medical Corps promotions are now judged under "fully qualified" rather than "best qualified" standards.

(8) A reduction in payback time for special training—This, too, already has been accomplished. Until recently, a doctor serving residency training as a military internist or thoracic surgeon, for example, had to serve on active duty for several years beyond the two years' obligations required for other MDs. This requirement resulted in a shortage of applicants for many much needed resident training billets. The system was changed to provide a standard two-year payback, and there since has been a surplus of applicants in numerous specialties.

(9) A liberalized continuation pay program—The original continuation pay program established in 1968 permitted a physician with over eight years' active service to receive a three-month bonus for each year of active duty for which he agreed to extend, and gave a four-month bonus to each physician with over 20 years of service for each year he agreed to extend.

Last year the program was liberalized to permit a qualified specialist who has completed his initial active-duty tour to get a four-month bonus after five years of service as a medical officer, and to give credit for civilian specialty training in computing a doctor's active service as a medical officer.

It is still too early to make a final determination as to how effective the continuation program will be, but initial soundings indicate, H&E officials say, it already has been and likely will continue to be extremely beneficial in retaining critical skill specialists on active duty.

(10) Establishment of a medical command system—the command relationships between the various military Medical Corps and Service Line components can, charitably, only be described as a disorganized mess. Within the San Diego area, for example, are the 2,200-bed San Diego Naval Hospital (the largest U.S. military hospital anywhere in the world) and some 22 naval dispensaries and other medical facilities—four of which come under the Navy Surgeon General and 18 of which come under the jurisdiction of four separate Line commands, including one (CINCPAC) headquartered in Hawaii.

Dr. Rousselot believes it would make more sense to establish a medical command system which would have jurisdiction over all of a Service's medical units and facilities in a given area.

LINE OPPOSITION

Dr. Rousselot, who is as astute politically as he is respected medically, already has received "100% endorsement" of the ten-point package from members of his Medical Advisory Committee—composed of representatives from the American Medical Association, American College of Surgeons, American Hospital Association, American College of Physicians, and Association of American Medical Colleges. Dr. Rousselot also concedes, however, that certain proposals in the ten-point package already have encountered opposition from the Line military and may therefore be difficult to get enacted. (Dr. Rousselot declined to go into particulars, but JOURNAL sources say the strongest Line opposition relates to the proposed increase in Medical Corps star-rank billets and to the medical command system.) Higher pay for military MDs also is opposed by some Line elements, it is believed, as is, perhaps, the establishment of a separate medical R&D budget. Most other items in the ten-point package reportedly have the solid endorsement of the military Line, and thus are more likely for early enactment.

How soon any or all of the proposals can be put into effect is, of course, speculative, but at least two of the four legislative recommendations—for an increase in medical scholarships and for establishment of the Military Health Sciences University—probably will be enacted during the current Congress.

It may well be that the pressures for eliminating the draft and the move toward an all-volunteer military will force early enactment of the other proposals as well. In Dr. Rousselot's words, "The inescapable conclusion is that we must move to an all-volunteer force of health professionals within two years, if that is the period for which the general draft is extended."

WE'LL SEE YOUR ONE, AND RAISE YOU FOUR

The concept of a Health Sciences University for the Armed Services would seem to be an idea whose time has come.

Establishment of a "Federal Medical School, similar in pattern of operation to West Point and the Naval Academy" first was suggested by Representative F. Edward Hébert (D-La.), then a relatively junior Congressman, in 1949. Mr. Hébert, the new Chairman of the House Armed Services Committee, has pushed and promoted his idea through the years ever since, usually against formidable DoD opposition, and has reintroduced the now much modified idea into the 92nd Congress in the form of H.R. 2, a bill "to establish a Uniformed Services University of the Health Sciences."

If the time was not opportune in the years past for establishment of such an institution, it is now. Once-adamant DoD opposition has been replaced, since the arrival on the Pentagon scene of Dr. Louis P. Rousselot, Assistant Secretary of Defense for Health and Environment, by enthusiastic support of the Hebert proposal. There also is increasing concern in both the civilian medical and federal government communities over the continuing national shortage of physicians—the Soviet Union has a greater number of MDs per capita than does the United States.

Finally, the push for an all-volunteer force and to eliminate the Selective Service System also will mean an end to the doctor draft. Even if this were not the case, the 1969 switch to a lottery system of selective service means that, within six or seven years at best, the pool of draft-eligible doctors will be completely exhausted. Unless current rules are changed, young men who are subject to the lottery will not be draft-eligible a second time when they complete medical school.

The solution to all of these and several more problems, say OASD (H&E) officials, is enactment of H.R. 2, which will permit the Armed Services to become, for the first time, "producers of doctors, rather than consumers of doctors."

H.R. 2 proposes, as did earlier versions of the bill, establishment of a military Health Sciences University "within a twenty-five mile radius of the District of Columbia." The D.C. area was chosen because of the location in or near Washington of such major military medical facilities as the National Naval Medical Center in Bethesda, Md., the Malcolm Grow USAF hospital at Andrews AFB, Md., and the Army's Walter Reed General Hospital and the Armed Forces Institute of Pathology, both in Washington.

The bill also directs the Secretary of Defense to report to the House and Senate Armed Services Committees "on the feasibility of establishing educational institutions similar or identical . . . at Portsmouth [Va.], San Antonio, San Diego, San Francisco, and at any other locations he deems appropriate." The idea of expanding to five or more schools ("We'll see your one and raise you four" is the way one enthusiastic supporter of the Hebert proposal put it) was the natural outgrowth of the original plan to establish only one such facility. There are large military populations in each of the other locations designated for feasibility studies—the last feasibility report is due no later than 30 June 1976. OASD (H&E) officials, including Dr. Rousselot, told *The Journal* they strongly support the five school program.

In accordance with other sections of H.R. 2:

The Health Sciences University would be organized "to graduate not less than 100 medical students annually."

The University would be governed by a Board of Regents consisting of nine civilians "outstanding in the fields of health and health education" appointed by the President, the Secretary of Defense or his deputy (an ex-officio member), the surgeons general of the uniformed Services (ex-officio members), and the Dean of the University—who would be appointed by the Board from civilian life, and who would serve on the Board as a non-voting, ex-officio member.

Students would be commissioned officers in a Reserve component, serving on active duty in pay grade O-1 "with full pay and allowances of that grade." Upon graduation they would be given regular commissions and would be required to serve on active duty "for not less than seven years, unless sooner released."

The faculty and administrative staff of the school would come from both the civilian and military medical communities under regulations prescribed by the Board of Regents.

(The opportunity for such academic assignment would be a powerful career incentive for military MDs, say OASD (H&E) officials.)

The school could, through the Board of Regents, negotiate affiliation agreements "with an accredited university or universities" and/or "become part of a national university of Health Sciences should such an institution be established in the vicinity of the District of Columbia."

The Board of Regents would have the power to establish postdoctoral, postgraduate, and technological institutes—assignment to any of these, H&E officials say, also would provide a strong career incentive for military MDs.

Hearings on H.R. 2 are scheduled to begin in June before the House Armed Services Committee, chaired by Mr. Hébert. The bill is expected to be approved by the Committee and passed by the House in short order, and to get Senate approval somewhat later in the session. If everything goes according to expectations, a 21-year dream will finally have come true for Chairman Hébert. The first class of medical school seniors, under terms of H.R. 2, is to graduate "not later than ten years from the date of enactment of this Act."

IT'S WYOMING

Mr. McGEE, Mr. President, a constituent of mine, Mrs. Gladys Housman, of Guernsey, Wyo., has sent me a song which she authored. The song, entitled "It's Wyoming," expresses in a very concise and poetic manner what we hold so dear in my State.

The song is a tribute not only to Mrs. Housman's creative abilities but also to those things which make Wyoming the great State it is.

I ask unanimous consent that the song be printed in the RECORD.

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

IT'S WYOMING

(By Mrs. Gladys Housman of Guernsey, Wyo.)

Fairest State in the land,
Blest by God on ev'ry hand
And this State of which we sing,
Beloved by all is Wy-o-ming.

In the West where cattle roam
On the Plains, is our dear home.
This great State of which we sing,
Beyond compare is Wy-o-ming.

Bluest skies, sunsets rare,
Friendly folk eve-ry where.
So this State of which we sing,
Renown'd to all, It's Wy-o-ming.

THE 337TH ANNIVERSARY OF THE FOUNDING OF MARYLAND

Mr. MATHIAS, Mr. President, on March 25, 1971, we will commemorate the 337th anniversary of the founding of Maryland. While this is a day of celebration and thanksgiving, it is also a day for renewed resolve and dedication.

Last year a prayer for Maryland Day was written by the Very Reverend Francis Sayre, dean of the Washington Cathedral. Since his thoughts and words should provide continuing inspiration for the people of Maryland, I submit them here for the RECORD:

Blow, Lord, Thy clean winds upon the shores and shoals of Maryland.
Blow gentle breeze of blessing across the

earth, atop her stalwart hills, and over the greening fields.

Blow, Holy Spirit, the freshness of liberty through the hearts of Thy people whose domain names for a queen, yet worships the King who is the Father of us all.

So may Thy children catch upon their hopes the breath of glory which Thou doth send to fill the spangled sky, the lofty sails of ships, and faithful lives of men.

Fulfill then, Oh God, the promise once borne upon the wings of a dove of a land of peace and companionship, and courage enough ever to follow after Thee; through Jesus Christ Our Lord. Amen.

ARIZONA WINS INITIAL WELFARE VICTORY

Mr. GOLDWATER, Mr. President, on January 27, I predicted that a new day is breaking in America when the Federal courts will listen to the reasonable interests of all segments of society, our taxpayers and State officials included. My remarks were made in anticipation of a fair ruling by the judiciary on the State of Arizona's challenge of an incredible order issued by the Department of HEW which would have cut off the entire welfare assistance funds provided to nearly 100,000 needy Arizona citizens.

Senators may recall that on that day an HEW Administrator had announced his decision to withhold the welfare checks of all Arizona recipients as an enforcement measure designed to bludgeon Arizona into accepting four minor HEW regulations of dubious constitutionality. At that time, I urged the State to fight the issues through in the court system where I foresaw its eventual success.

This the State has now done, and I am pleased to report today the U.S. Court of Appeals for the Ninth Circuit has agreed to examine the unconstitutionality of HEW's activities. On February 22 the court issued an order allowing Arizona to file its opening brief by April 5 and setting the time for submission of the Department of HEW defense by May 3. The State of Arizona may then furnish a reply brief by May 17, after which the court will schedule oral argument before a regular panel of the court.

Most important of all, I am delighted to announce that the court granted Arizona's motion for a stay of the arbitrary HEW cutoff order. The circuit court decreed that HEW cannot enforce its order pending disposition by the court of the entire proceeding. This is a dramatic and important victory for Arizona in its confrontation with the bureaucratic regime in Washington. I believe it is fair to interpret the court's decision preventing the withholding of welfare moneys as a clear sign of the court's belief Arizona's legal arguments are not frivolous and are not being presented for purposes of delay.

Some arrogant welfare organizations have accused the Arizona government of nearly every sin under the sun against welfare individuals, and the decision by the Court of Appeals staying the HEW order is a definite repudiation of these wild charges. The court ruling clearly vindicates the sincerity and reasonableness of Arizona's position. It remains my

view that HEW has attempted to write law by administrative fiat in the Arizona welfare situation and has flagrantly distorted the true intent of Congress when it wrote the welfare statute. I will repeat my prediction that by the time the Arizona compliance case is settled in the judiciary, HEW will be taught its regulations are not holy script.

Mr. President, I congratulate the attorneys for Arizona and the experts in its welfare department for winning this initial victory and look forward with confidence to the final judgment which will be forthcoming from the court of appeals. It is the Arizona welfare recipients themselves who will benefit from the continued flow of welfare payments and for this they have the State officials to thank, not HEW.

AMERICA IN THE WORLD OF THE 1970'S

Mr. McGEE, Mr. President, on Friday, March 5, the Senator from Washington (Mr. JACKSON) appeared before the Commonwealth Club of California in San Francisco and presented a frank and realistic analysis of some of the serious problems confronting this country in foreign and defense affairs.

In concluding his impressive statement, Senator JACKSON said:

I've discussed these matters today—even though they are unpleasant—because I think it is important for people to speak out.

I also think it is important for people to speak out—in this kind of straightforward way. I recommend that Members of Congress read the entire text of Senator JACKSON's speech. And I 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:

AMERICA IN THE WORLD OF THE 1970'S (By Senator HENRY M. JACKSON)

I am delighted to be here and share in this program. It is an honor to speak from this respected platform.

In this great port city of San Francisco, you have always had a special relationship to the countries of the Pacific. Here on the West Coast there has been an historic recognition that American interests are deeply tied to what is going on in the rest of the world. Here our trade and cultural relationships with other countries have increasing significance.

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.

For well over a decade the attention of

the American people has been focused on Southeast Asia.

For too long now the war in Vietnam has absorbed an inordinate amount of the time and energy and resources of this country. But we are there. We must resolve our involvement in a responsible way.

We did not prosecute this war to a military conclusion. Now we are reducing our military involvement, withdrawing U.S. forces.

There are a few people in this country who want to bring the war to an end by a military victory—by Hanoi. I don't think there are very many such people. The great majority of us want to end the war by an agreement that stops the fighting on all sides—that ends the killing by all parties, that opens the way for a fair electoral solution of the political issues, and that does not create dangerous new instabilities throughout the whole Pacific area.

The primary leverage we have with Hanoi to end the fighting and to achieve a release of American prisoners lies in the uncertainty that surrounds the timetable of U.S. withdrawal. Any announced deadline for a U.S. pullout can undermine the confidence of the South Vietnamese and the spirit of cooperation essential to their effective takeover of their own defense. Setting a public deadline is not a responsible policy for achieving an end to the conflict. It is an escape from reality.

I want to speak to you today about two other critical regions in the world: one—Northeast Asia—where our most difficult problems are still some way down the road; the other—the Middle East—where the crisis is full-blown upon us.

NORTHEAST ASIA

While the attention of the American people has been focused on Southeast Asia, important developments have been occurring in Northeast Asia—developments that in effect add up to a shifting balance of power.

During the 60's, Japan emerged as a great power—the third largest industrial power in the world—with rising nationalist sentiment. This nationalist sentiment is not now of the messianic, pre-war type, but it does reflect a desire for greater independence from U.S. influence and a search for meaningful national goals beyond mere economic growth.

Of obvious importance is the maintenance of close and cooperative American relations with Japan. We should not permit immediate difficulties over trade policy to overshadow the immensity of our mutual interests—across a broad front of political, economic, and security concerns.

The agreement on the return of Okinawa in November of 1969 eliminated perhaps the greatest obstacle to the continuation of a close United States-Japanese association. However, relations between our two countries continue to suffer from a major handicap: on the part of the Japanese, a sensitivity to their past, and now more limited, dependence on the U.S.; on our part, a failure fully to overcome the "occupation hangover". It is the responsibility of both our peoples to eliminate this outdated thinking.

In the near future, we can expect that Japan will press for a reconsideration of present U.S. base arrangements. A gradual reduction of American bases in Japan, worked out in close conjunction with the host government, is advisable and inevitable. With some strong bargaining on both sides, we should be able to fashion mutually satisfactory arrangements for the remaining bases that will meet our requirements, including those for emergency situations.

Japan is an independent, great power with whom we should consult on issues of mutual concern on the same basis as we consult with our NATO partners. What Ja-

pan wants is political recognition of its status as a great power. To the extent that we recognize this legitimate Japanese aim, and retain the confidence of the Japanese people in the reliability of our treaty obligations in the area, I believe we can improve the prospect of a constructive evolution in Japan's nationalist sentiments and of close American-Japanese cooperation in the future.

A year and a half ago I outlined key components of a U.S. policy toward Mainland China which would open the way for a positive Chinese response and a genuine improvement in relations between our two governments, if not in the immediate future, at least over the longer term.

Today I want to emphasize an additional element. We cannot ignore the fact that within the year we may see a major change in Mainland China's international position. By this I mean Peking's entry into the United Nations. 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.

At the United Nations we could signal United States willingness to explore with Mainland China directly and with great concreteness such issues as:

The improvement of trade relations between U.S. and Mainland China, including the mutual reduction of barriers to trade; The accomplishment of mutual U.S.-Chinese exchanges of reporters, scholars, scientists, and cultural performers;

The inclusion of the Peking regime in negotiations on arms control. 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.

We cannot, of course, predict how Mao Tse-tung or his successors will respond to a chance to enter the UN. For reasons of their own, they may insist on totally unacceptable conditions of entry.

The Chinese Communists have followed a policy of isolating themselves—cutting their people off from the world by their chaotic Cultural Revolution, mistreating foreign diplomats posted in Peking, and so on. It does not follow from this that our only response should be a policy of isolating Communist China.

Our treaty obligations for the defense and security of the Republic of China on Taiwan will continue whatever the formula whereby Mainland China enters the UN. We have a long record of alliance and friendship with the Republic of China on 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.

Peking's presence in the UN would be no panacea for the host of problems involving China that affect world peace and stability. But Mainland China's participation in the UN can provide an opportunity for them and for us to demonstrate our responsibility for peace and stability in the Western Pacific—a responsibility which is in our mutual interest.

THE MIDDLE EAST

In the Middle East, where we have been preoccupied with the immediate consequences of recurring crises, the vision of our long term interests and of the requirements for a stable peace has been clouded. The re-

sult is a policy based on a fundamental misconception: that the central problem in the Middle East is the conflict between Israel and the Arab nations. I believe that we have been far too slow to recognize the threat to our own long term security resulting from the deepening involvement of the Soviet Union in the Middle East.

We must face up to the fact that the central problem in the Middle East is the Russian drive for hegemony. If there were no Middle East problem, the Soviets would invent one. If Israel did not exist, the Russians would find another pretext for pursuing their historic ambitions in the Mediterranean and the Persian Gulf.

In pursuit of this goal, which dates back to Czarist times, the Soviets have, for the first time since World War II, dispatched large numbers of military personnel to combat operations in a foreign country.

Russian pilots, flying aircraft with Egyptian markings, are flying long range reconnaissance missions in the Mediterranean.

Russian pilots have engaged Israeli pilots in the air.

Russian personnel have engaged Israeli aircraft with surface-to-air missiles—missiles that are part of the most sophisticated system of air defense in the world, deployed and partly manned by Soviet troops and technicians.

There are, today, approximately 15,000 Russians in the United Arab Republic.

The Soviets have lavished vast sums of military and economic aid on a long list of Middle Eastern countries: Egypt, Syria, Iraq, Sudan, Algeria, Yemen and South Yemen. The Middle East in general, and Egypt in particular, has received the lion's share of Soviet worldwide economic and military assistance.

The Soviet Mediterranean fleet now numbers some 40 ships, rising, on occasion, to 60 or more. In Egypt the Soviets have established a major naval base at Alexandria where her ships discharge military cargo at the rate of one every four days.

Algiers, Latakia, Port Said, Tartus, Port Sudan, Aden and Berbera have become Soviet ports of call from which her extensive and growing naval activities can be supported.

The Soviets in the Middle East are pursuing a policy of "opportunistic expansion". Moscow's aim is to: destroy Western influence in the Middle East; gain control of oil sources vital to Western Europe and Japan which now fill a great proportion of their oil needs from the Middle East (Europe 75%—Japan 90%); and threaten NATO's soft underbelly with a substantial military presence on and around the shores of the Mediterranean and the Red Sea.

The immediate Soviet objective is the reopening of the Suez Canal—which doubles the effectiveness of the growing Soviet military and merchant fleets and enables a single fleet to move rapidly between the Mediterranean and Indian Oceans and thereby contributes to their ongoing penetration of Africa.

The current negotiations in New York have drawn attention to the immediate situation in the Middle East. But while we all share an urgent desire for a settlement of the tragic conflict between the Arabs and Israelis, we must not be a party to forcing a fragile interim arrangement that prejudices Israel's security and, at the same time, fails to guard the national security interests of the United States and our NATO allies.

The borders to which the Soviets and Arabs are pressing Israel were insecure even before the introduction into Egypt of substantial Soviet military deployments. Today these borders would be untenable.

A settlement based on Israeli withdrawal to inherently indefensible borders offers at best a temporary respite almost certain to

yield, in time, to new and far more dangerous hostilities than anything likely at present.

The opening of the Suez Canal and the direct negotiation of defensible borders are the trump cards in any forthcoming settlement of the Arab-Israeli dispute. As such, agreement on these issues should be withheld until a settlement of all other outstanding issues is reached, including Israel's right of access to the Canal—an international waterway. With the Canal back in operation, one of the chief incentives the Soviets have to make concessions on other outstanding issues will vanish.

Under no circumstances should Israel be pressed to withdraw or the Canal be reopened as a means of achieving a temporary settlement that leaves the larger question of Soviet involvement in the region unaffected. Israeli withdrawal to defensible borders must be accompanied by Soviet withdrawal from Egypt. The clear and present danger to the survival of Israel is obviously not the Egyptian Army, but the direct and indirect military participation of operational Russian forces.

It would be short-sighted and irresponsible to conclude an agreement that gave the appearance of settling differences between Israel and the Arabs while ignoring the chief source of instability in the Middle East: the large and uncontrolled Russian military presence.

Any partial settlement that provided for the continued presence of substantial Soviet military deployments in Egypt would merely perpetuate the insecurity that has three times resulted in war in the Middle East. It would plant the seed—not of peace and stability—but of tension and eventual conflict. It would be ironic indeed if the American effort to bring peace to the Middle East were to culminate instead in the achievement of an historic Russian imperial ambition.

In conclusion let me add this:

I've discussed these matters today—even though they are unpleasant—because I think it is important for people to speak out.

In issues of national defense and foreign affairs, the national interest, not a party interest, comes first. Sometimes that means that one must be critical of national policy, not because it is the policy of a Republican or Democratic Administration, but because it is poor policy for the nation. Sometimes it means that one must give one's support to a policy even though that support may incur a partisan disadvantage. And to be in the best interests of the nation, such criticism and such support should be free of the flavor of partisanship.

In the words of Robert Lovett, a great American, who served both Democratic and Republican Presidents:

"While the challenges of the moment are most serious in a policy-making sense, I see no reason for black despair or for defeatist doubts as to what our system of government or this country can do. We can do whatever we have to do in order to survive and to meet any form of economic or political competition we are likely to face. All this we can do with one proviso: we must be willing to do our best."

OPPOSITION TO PRESIDENT'S PROPOSAL TO EXTEND DRAFT

Mr. BAYH. Mr. President, I ask unanimous consent that a statement I made before the Senate Committee on Armed Services, in opposition to the President's request for a 2-year extension of the draft be printed in the RECORD.

In my statement, I said that the power to conscript men into the Armed Forces is awesome. Congress, therefore, should

not lightly grant this authority to the President—nor for too long a period of time.

In addition, I suggested that if Congress were to extend the President's authority to draft men, then Congress should annually authorize a ceiling on the number of draftees.

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

STATEMENT BY SENATOR BIRCH BATH OPPOSING PRESIDENT NIXON'S PROPOSAL TO EXTEND THE DRAFT FOR 2 YEARS

Mr. Chairman, I urge the Senate Armed Services Committee not to approve the President's request for a two-year extension of the draft. If the Committee determines that our national security needs demand an extension of the President's authority to conscript men into the armed forces then, I respectfully submit, a one-year extension is a more appropriate measure. I would also urge that the Committee seriously consider authorizing Congress to establish a ceiling on the number of draftees that could be inducted in the next fiscal year.

Congress has the Constitutional authority to raise and maintain armies. Translated into legislative functions, Mr. Chairman, this means it has the power both to establish the size of the armed forces and to determine the manner in which our young men are asked to serve. Congress should—indeed it must—exercise this vital Constitutional prerogative annually.

The power to conscript men into the Armed Forces is an awesome responsibility. Congress should not lightly grant this authority to the President—nor for too long a period of time. When it does, moreover, it should continue to exercise its full Constitutional powers to determine the number of draftees required to meet our national defense needs.

As a result of my amendment to the Military Procurement Act of 1970, Mr. Chairman, Congress is specifically charged with the responsibility for annually authorizing the average active-duty force levels of the component services. By requiring annual authorizations, Congress struck at the visible structure of the military manpower issue. Since active duty strength is, in part, a function of annual induction levels, Congress should likewise have the power to determine the proper mix of draftees and volunteers.

For a Congress concerned about its proper role in the formulation of foreign and national security policy to simply extend the President's authority to draft—without imposing any restraints—is an abdication of its proper role in our scheme of government. The size and nature of our military manpower, after all, is a major index of our national security posture and our treaty obligations. In terms of the total costs of the defense budget, moreover, manpower is the single most expensive item. Most importantly, manpower is our most precious resource.

Mr. Chairman, in looking back over the post World War II years at previous Congressional actions in extending the draft I was shocked by the apparent willingness of Congress to grant the President long-term authority to conscript men. In 1951, 1954, 1958, 1963, and again in 1967 the President's authority to draft—an authority that established no limits on the number of such draftees—was extended with only little debate. It simply sufficed for the Department of Defense to say in its 1967 request for a four-year extension, for example, that it was "in accordance with the procedures followed by the Congress in the previous extensions."

I submit, Mr. Chairman, that such ex-

planations are no longer adequate—if indeed they ever were.

We are now being told that as long as the war in Vietnam continues, there is need for the flexibility in force strength afforded by the present draft system—a system that imposes no limit on the number of young men to be drafted. In light of the current military situation in Southeast Asia, this could easily be interpreted to mean that the President would like to retain the power to increase draft calls in the event he escalated the American combat role in Indochina—without Congressional interference. I, for one, am not prepared to grant him that kind of unfettered authority.

Mr. Chairman, a decision to extend the Selective Service Act must necessarily involve a consideration of the desirability—and feasibility—of replacing the draft with an all-volunteer force. I welcome the national debate now underway on this question. Hopefully, it will focus attention not only on the many administrative shortcomings of the present draft but will force us to face up to the basic meaning of conscription. To draft young men to fight—and, for many, to die—is to impose a limitation on human freedom. Such a limitation should not be imposed for any but the most compelling reasons of national defense.

I strongly favor an announced American withdrawal from Vietnam within one year from the date of announcement. I had hoped that this goal could be reached by the end of 1971. But I believe that as long as young Americans are forced to fight in Southeast Asia they should be chosen under the draft system rather than through a voluntary army. The draft should be retained, on the basis of an annual congressional authorization, but not for the generally accepted reason about manpower needs.

There is a much more fundamental reason, Mr. Chairman. An elementary sense of justice, it seems to me, requires that the tragic burdens of wartime military service should be distributed as evenly as possible across all groups in American society.

I personally abhor the situation which now finds our young men fighting and dying in Southeast Asia. In my judgment, this is a bad war. It will not become a good war by merely changing the names and faces of those who fight it. If a certain foreign policy is bad we should change it—not just change the way it is implemented.

An all-volunteer army might well be comprised of young men from the lower end of the economic spectrum—those who cannot find similarly lucrative employment in the private economy. And at this time, it should be noted, we are experiencing a 6 percent unemployment rate and youth unemployment rates of double that. This is no way for a democratic government to implement its foreign policy or sustain its military during a war.

To move directly to a volunteer army today, Mr. Chairman, would be a mistake. There are some still unresolved problems associated with raising an all-volunteer force that must be answered convincingly. I am not yet convinced, for example, that we could avoid the kind of discrimination based on race and income that would perpetuate—possibly increase—division and injustice in our society. More importantly, the process of controlling military adventurism is strengthened by the leavening influence of civilians spread throughout the military.

A number of proposals have been made concerning the first steps we should take this year in moving toward a volunteer army. A one-year extension of the draft, it seems to me, would be perfectly consistent with these efforts. A one-year extension would present Congress with another opportunity next year to review the impact of these proposed changes and to evaluate the likelihood of

their eventually producing an all-volunteer military.

Mr. Chairman, any extension of the draft, moreover, must include a major overhaul of the present administrative machinery to insure that those who must serve have been selected by as fair and just a process as we can devise.

At a time when the complexion of the war in Indochina and our strategic needs can change dramatically within a few months time, Congress should exercise an annual check on both the level of troop strength and the method of induction. The need to determine both of these questions, in line with changing strategic goals, is based on a Constitutional grant of authority that Congress cannot now afford to neglect.

The essential precondition for abolishing the draft, Mr. Chairman, is the ending of our tragic involvement in Vietnam.

FEDERAL AID TO MEDICAL SCHOOLS

Mr. MATHIAS. Mr. President, recently I arranged for a briefing of the Maryland congressional delegation by deans of Maryland's medical and dental schools: Dr. John H. Moxley III, dean of the University of Maryland Medical School; Dr. David E. Rogers, dean of the Johns Hopkins University School of Medicine; and Dr. Charles Barr, assistant dean of the University of Maryland School of Dentistry.

At this meeting, Mr. President, only one item on the agenda: the burgeoning financial crisis facing these and indeed almost all of America's medical and dental schools. Cuts in Federal funding have already spelled death for two of the Nation's 55 dental schools.

Very significant, I think, was the participation, also, of representatives from the State medical associations. Lending important perspective to the dialog were Dr. John Chissell, president of the Maryland Academy of General Practice; Dr. Paul Mullan, official of the Maryland Medical and Chirurgical Faculty; and Dr. Emerson C. Walden, past president of the Maryland Academy of General Practice and president elect of the National Medical Association.

An important national viewpoint was also represented, in the person of Dr. John Cooper, president of the Association of American Medical Colleges. Still others were present and made meaningful contributions.

In the course of the discussion, one written submission was offered—that by the dean of the Johns Hopkins School of Medicine. Because it speaks not only of problems in Maryland and at Johns Hopkins, but indeed presents conclusions of national significance, I ask unanimous consent that it be printed in the RECORD.

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

TESTIMONY BEFORE THE MARYLAND DELEGATION TO THE U.S. CONGRESS REGARDING FEDERAL AID TO MEDICAL SCHOOLS

(By David E. Rogers, M.D.)

Maryland medical schools are currently struggling to meet their commitments to the people of Maryland while burdened with a crucial financial dilemma. The State's medical schools are extending their physical, financial and human resources to deliver

health care in inner city areas, increase the supply of health personnel, and perform research which will improve health care in the future. At the same time, funds available to support medical education have decreased under the impact of reduced federal funding, increased demand for services, inflation, decreased private giving, and lower income from endowment and investments. In the following statements, the record of achievement and the financial plight of the Johns Hopkins Medical Institutions will be detailed. The University of Maryland School of Medicine faces a similar crisis and, indeed, so do most of the nation's medical schools.

RECORD OF SERVICE

The Johns Hopkins Medical Institutions (JHMI) provide medical care primarily to Maryland residents and to a large segment of the inner Baltimore City population at an annual cost of \$40 million. Over \$1.8 million of this amount represents deficit spending by Hopkins to give ambulatory health care to the needy without charge for the professional services rendered by our staff. The amount of service rendered is impressive.

One out of every 6 patients who visits a physician in Baltimore is seen at the Johns Hopkins Hospital.

Johns Hopkins Hospital plus its sister teaching institutions, University Hospital, Baltimore City Hospitals, Sinal Hospital, together handle 40 per cent of all patient care visits in Baltimore.

Hopkins Hospital sees 24 per cent of all emergency room visits in the city of Baltimore.

Of the active physicians practicing in this state, over 25 per cent have been or are associated with the JHMI, either as graduates of the Medical School, full or part-time faculty, or trainees in its intern and residency programs. The JHMI attracts physicians into this state since many non-residents take up residence in Maryland after training at JHMI. As an example, virtually all of the new physicians in Howard County have come there to participate in our new Columbia Health Program.

Nationally, the School of Medicine ranks second only to Harvard in the number of persons it has provided as teachers to other medical schools.

The JHMI are one of the largest employers in the State, employing over 6,000 persons.

Between 1965 and the coming year, the JHMI have responded to the need for more physicians by increasing the entering class size from 90 to 115, a 22 per cent increase. In addition, we have accelerated the training period of physicians without sacrifice in quality and are considering other programs which may further reduce the duration of medical education.

In recognition of the need for new types of health professionals, JHMI have instituted over 60 programs for training other kinds of health professionals and have established a new Center for Allied Health Careers which will further expand this effort.

The Medical School has initiated new programs for delivering health care in the new city of Columbia and has provided physician manpower for this area of the State.

Working with representatives of the community, local, state and federal health authorities, the Johns Hopkins Medical Institutions has developed plans for and will soon open a new primary care center in East Baltimore.

FINANCIAL SITUATION

In fiscal 1970, the deficit of the Johns Hopkins University School of Medicine was over \$900,000. In fiscal 1971, the deficit will climb to \$2.2 million. Despite heroic efforts to increase income and reduce expenditures, including restrictions on hiring and salary increases, the projections for fiscal 1972 indicate a deficit of over \$1.7 million. This sim-

ply cannot be sustained, and we run the real possibility of losing staff and programs which have taken many years to establish.

The prime cause of these deficits is the reduction in the percentage of our total budget provided by the federal government. Decreasing federal support has placed an increasing burden on the limited non-federal sources of funds available to the School (see appendix 1). Despite our financial crisis, we have improved and expanded our delivery of health care, are training greater numbers of physicians, and have, to date, retained the precious resource of an outstanding professional staff.

Concurrent with the decrease in federal support, the JHMI have been subject to the pressures common to the rest of the economy: unionization of some of its non-professional personnel resulting in higher wages; decreasing income from investments; escalating costs for essential services and supplies; and sharp decreases in private giving.

Simply stated, the costs of maintaining our educational, service and research functions have increased more sharply than our income.

SUMMARY

Since its founding in 1893, the Johns Hopkins University School of Medicine has served and continues to serve the needs of the citizens of Maryland for health care and trained health personnel.

Now the school finds itself in dire financial straits, at a time when it is being asked to increase its service to the State of Maryland and to medicine. Since 1965 the size of our entering class has risen 22 per cent, while at the same time the Federal share of our budget has decreased 28 per cent. This Federal cut-back seriously threatens our immediate future. We cannot pass this additional expense on to our students, over 50 per cent of whom already receive financial aid. Financial stability must be restored if Hopkins is to continue its important role in medical education, research, and vital health services to its community.

One of the most important concepts which we wish to bring to this delegation is the inseparable relationship among the three elements—training of health care personnel, delivery of health care, and biomedical research. Recent shifts in emphasis by Federal funding agencies toward increased funds for direct aid to medical schools—while at the same time decreasing aid to medical students, biomedical research, new construction and training programs of many kinds—is no more than squeezing a balloon to displace funds from one part to another without actually increasing aid to the schools.

In order to truly aid the schools in their multiple mission, the Federal government must support at an adequate level all facets of that mission. Failure to do so must inevitably result in financial failure of many medical schools—a loss of a precious national resource.

The following list details specific areas in which the Maryland Delegation to the United States Congress is asked to exert its force to effect improvement to the financial problems of the nation's medical schools.

1. Per capita aid to schools based on enrollment in the amount of \$5,000 per student each year. The absolute minimum cost of educating a medical student is \$4,000 per year and estimates of actual costs for faculty, facilities and maintenance range to well over \$10,000 per year. President Nixon's request for \$6,000 per *graduating* students is entirely inadequate to meet the real needs of the schools.

2. Continuation of special project grants which aid schools in expanding enrollment and developing new curricula.

3. Increase in scholarship award levels from \$2,500 to \$3,500 per year, and continuation of student loan programs at an increased funding level to provide a maximum award

per student of \$3,500. The current HEW manpower bill provides no money authorization for direct loans to students. Most important is the provision of funds based on a formula of \$3,000 multiplied by 10 per cent of the school's enrollment.

4. Provide substantial funds for construction of health facilities for the needs of the present and the future. HEW now plans no Hill-Burton Act funds for hospital construction.

5. Support of Health Maintenance Organizations at a level adequate to care for the health needs of the nation.

6. Increased support of biomedical research, both for its own clear value and because funds for research have in the past helped to support the operation of medical schools.

7. Reassessment of the recent NIH decision to discontinue renewal of Research Career Development Awards beyond five years. This decision, if enforced, will guarantee financial disaster to departments dependent on such awards for the maintenance of their faculty members. Further, it will limit the number of physicians choosing medical research. Those so choosing represent only a small percentage of total graduates (less than 5 per cent) but their contribution to medical research and the nation's health is significant.

8. Increased funding for programs of care for indigent patients.

9. Restoration of funds for training grants which have been sharply reduced, threatening the future supply of health personnel.

Legislation has been introduced by Representative Staggers of West Virginia which encompasses some of the points made above. We request your support of these bills.

These recommendations are based on the proposition that medical education is a function of national importance and that the academic institutions involved are national resources which should be provided Federal support in substantial amounts to achieve stated national objectives.

We appreciate the opportunity to present this testimony before the Maryland Delegation and hope that you share with us our concern regarding the financial plight of medical schools.

SENATOR ERVIN'S FORESIGHT ON ARTICLE V EXEMPLARY

Mr. ALLEN, Mr. President, the Washington Star for February 2, 1971, published a column entitled "Senator ERVIN'S Foresight on Article V Exemplary," written by James J. Kilpatrick. Inasmuch as the article refers to a bill introduced by Senator ERVIN which undertakes to prescribe the rules governing constitutional conventions called under article V at the instance of the States and for that reason merits consideration by Members of the Senate, 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:

SENATOR ERVIN'S FORESIGHT ON ARTICLE V EXEMPLARY

(By James J. Kilpatrick)

North Carolina's Sen. Sam Ervin is performing another great service just now in his effort to get prompt action on a bill fixing the ground rules for a constitutional convention. The senator is a wise old owl, possessed of perfect vision. In a tangled underbrush of law, he sees a crisis creeping up.

Few others have paid much attention. After all, the country hasn't seen a constitutional convention since 1787; it is widely supposed that such a political animal is extinct. But

unless Ervin is sorely mistaken—and he isn't mistaken often—the next few months are likely to see the Congress eyeball to eyeball with Article V of the Constitution.

That widely forgotten provision says flatly, in words that would seem to defy misunderstanding, that on the applications of the legislatures of two-thirds of the states, the Congress "shall call" a convention for proposing amendments to the Constitution. Such amendments, if subsequently ratified by three-fourths of the states, would become valid additions to our fundamental law.

During the first hundred years of our republic's history, according to a study by Fred Graham in 1963, only 10 such "applications" were filed by the states with the Congress. Between 1893 and 1911, however, petitions came on with a rush; 31 state legislatures sought a convention to propose an amendment for the direct election of U.S. senators, and though they didn't get the convention, they did get the 17th Amendment.

Over the past 60 years, the tide has ebbed and flowed: World government, the prohibition of polygamy, wages and hours, the Townsend plan of old-age assistance. It wasn't until 1967, four years ago this spring, the members of Congress gave such applications a second glance. At that time, it appeared that 32 state legislatures had applied for a convention to propose a constitutional amendment overturning the Supreme Court's rule of "one man, one vote" for apportioning legislative seats.

We heard a good deal of discussion then of the legal complexities. The late Sen. Everett Dirksen fulminated gloriously for a while; law professors came and went; newspaper editors, all of whom are thwarted constitutional lawyers, delivered themselves of advisory opinions. Eventually the uproar subsided.

Now it's back again. This time the target is federal revenue share—an idea with enormous appeal to state legislatures across the land. Five states (New Hampshire, Florida, Louisiana, California and New Jersey) already have filed formal applications with Congress to call a constitutional convention for such an amendment. At least 14 other legislatures, now in session, are known to be considering such resolutions.

Ideas are contagious. This idea could become epidemic. Unlike other convention movements of recent years, revenue sharing arouses few objections of philosophy or principle. The purpose is far removed from reapportionment, state control of obscenity, prayer in the schools, or a new "Supreme Court of the Union." State legislatures are hungry for money with no strings attached. If they can't get it any other way, how about amending the Constitution?

Ervin is asking his colleagues to suppose that 34 States file Article V applications. What then? One belligerent response is to say that no power can compel the Congress to carry out the constitutional commandment that Congress "shall call" a convention. But members are sworn to uphold the Constitution; we have to assume they would perform their duty.

How? Ervin's bill would establish a permanent, orderly plan. If 34 states, within a seven-year period, should ask for a convention on a given issue, Congress would schedule a convention that would be strictly limited to consideration of that issue alone. Each state would elect one delegate from each congressional district, plus two at large. When the convention had finished its business, Congress would transmit the proposed amendment back to the states for ratification.

This is a wise and prudent bill. It ought to be taken up now, in tranquillity, before the predictable spring day when crisis arrives on the Hill with the postman. He may be bearing application 34.

WYOMING'S WAR ON DEADLY STREP

Mr. McGEE, Mr. President, the March 1971 issue of Today's Health, a magazine published by the American Medical Association, contains an article entitled "Wyoming's War on Deadly Strep." The article deals with a unique program that has been developed in Wyoming schools to combat strep throat, the cause of crippling rheumatic heart disease.

As the article points out, rheumatic fever remains the most common cause of heart disease in children. About 1.6 million Americans now suffer cardiac damage from this disease, which each year claims about 14,000 lives.

The article also points out that Casper, Wyoming's second largest city, began the program of strep detection, utilizing volunteer services from parents and the medical profession. As a result, there has not been one single case of rheumatic fever in Natrona County in 3 years.

What the city of Casper and other Wyoming communities have done demonstrates how problems can be overcome and solved when a community is willing to become involved.

The city of Casper and the State of Wyoming are to be saluted for their outstanding achievement, which has been brought about only because people were willing to become involved to eradicate this menace from their midst.

The efforts of so many people in Wyoming which have made this program a success have gained national recognition for the State, and deservedly so.

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:

WYOMING'S WAR ON DEADLY STREP

(By Mike Michaelson)

Westerners are taciturn folk. They'll likely answer your questions with tight-lipped "yeps" or "nopes." So goes the stereotype. Yet in Wyoming—proudly tagged "the Cowboy State"—a generation has grown up unshakably convinced of the virtue of opening the mouth real wide at least once a week.

They have good reason for their conviction, for the simple, weekly act of inspecting the throat of every child in grade school has virtually eliminated dreaded rheumatic fever among Wyoming's school population. It means that tell-tale signs of "strep throat" can be spotted early, verified by swabbing and lab culture, and, if necessary, treated.

Rheumatic fever remains the commonest cause of heart disease in children. It is produced by infection with a specific germ—group A, beta hemolytic streptococci—which causes the familiar "strep throat." About three out of every 100 such infections lead to rheumatic fever, which can inflict crippling damage to the heart.

About 1.6 million Americans now suffer cardiac damage from rheumatic heart disease, which each year claims about 14,000 lives. Yet it is a disease which can be prevented if strep infections are detected and treated early.

And this is something Wyoming communities are doing with notable success. A leading authority on streptococcal infections and rheumatic fever admits surprise at the low level of the insidious strep strain found in a community randomly tested. "This is per-

haps the lowest incidence recorded in children," says Angelo Taranta, M.D., associate professor of medicine at New York University.

Wyoming's victory over this incapacitating disease becomes even more remarkable in light of some elementary geography: Wyoming is sliced by the string of towering peaks that form the Great Divide; Casper, where the strep detection program began, lies in the long shadow of the Rockies. And medical scientists know that the Rocky Mountain region is one of the nation's prime target areas for the disease—although this peculiar geographic prevalence has so far defied scientific explanation.

"It was not uncommon, at one time, to have as many as 25 rheumatic fever cases in County Hospital," says Louis J. Roussalis, a bright, young general practitioner who settled in Casper about nine years ago and who serves as co-chairman of the local Rheumatic Fever Control Committee. "By contrast," he notes, "we haven't had a single case from this county in three years."

These dramatic results are beginning to attract wide attention. Internationally known experts are looking toward Wyoming, and communities in several states recently have expressed interest in setting up similar programs.

National recognition of the Wyoming success has been long coming: 15 years. And it has required the commitment of local doctors, public health nurses, teachers, and school officials, the unstinting voluntary help of parents, and the unwavering belief and tireless efforts of a transplanted Chicagoan, Brendan Phibbs.

Could that which works in Wyoming be applied elsewhere? Doctor Taranta believes it could—provided it had the same kind of energetic leadership and community support.

"Bren Phibbs is a charming and persuasive individual," he notes, "and although I believe the Casper program is largely a personal success, it could be done elsewhere."

"Certainly, one of the key elements has been the mustering of the support of large numbers of volunteers. This makes the program quite inexpensive," says Doctor Taranta, citing lack of funding as one of the common barriers to successful communitywide programs.

Brendan Phibbs is built tall and solid like a pro football linebacker. He wears his iron-gray hair brushed straight back and has the ruddy complexion of his Irish forebears. An enthusiastic outdoorsman, he skis, hunts, fishes, and climbs mountains. During World War II he took part in the Allied push across the Rhine as a front-line surgeon with a tank company.

Today, he specializes in internal medicine and has a practice in Casper, Wyoming's second largest city, population 48,000. With cardiology as his subspecialty, Doctor Phibbs runs a sophisticated cardio-pulmonary laboratory and treats heart patients from across the state.

He also has a Gaelic penchant for clinging determinedly to an idea he believes in and for speaking plainly, particularly when chiding down a medical myth. It is not calculated to endear him to many of his peers, for example, when he states bluntly that "probably half of the physicians in the United States don't know how to treat streptococcal pharyngitis." And then shows slides which prove that he does!

"Even some of the very capable pediatricians have a tendency to treat a bad-looking throat with a lot of quick-acting penicillin. What's really needed is the long-acting kind," says Doctor Phibbs, explaining that it takes 10 days to eradicate the strep organism.

Brendan Phibbs' mercurial Irish personality also is endowed with ample quantities of a disarming, puckish charm and a smidgen of pure blarney. Pulling off the program

on a frugal budget, Doctor Phibbs admits that he and his people "beg, borrow, and steal" a great deal of help and equipment, and that he blatantly underpays his dedicated staff. And the program has built up in the community, he points out, a veritable army of "hundreds of moms who know better than many doctors how to swab a throat."

Certainly, the level of public information about strep and its odious complications is uncommonly high. One time, Brendan Phibbs was driving with a visiting public-health researcher and happened to stop at the general store of a small mining community. To make a point, the Casper doctor asked his companion to question the little lady who owns the store and pumps the gas about the strep program. "She answered all his questions," Phibbs relates with a grin. "He was astonished. She knew more than the average doctor did."

Clearly, the strep prevention program which began in Casper and now has been expanded to include most of the state, is unique. Yet, it is remarkably simple.

Fact One: Strep infections can lead to the serious complications of rheumatic fever or nephritis, a kidney disease. Unfortunately, as many as 30 percent of the infections which produce an attack of rheumatic fever may be so mild as to cause no apparent symptoms. "This means that the parents may be wholly unaware of the danger," the American Heart Association has commented, "and that no physician is asked to examine the child."

Lack of severe symptoms also is one reason that has gained rheumatic fever the reputation as a "disease of poverty," explains Doctor Phibbs. "Poor people don't regard a sore throat as a reason for a trip to the doctor. Instead, they'll take aspirin, or a lozenge, or a throat gargle. This, of course, doesn't affect strep, which is a very contagious organism." Add crowded living conditions to this equation and you have the climate for the rapid spread of infection.

Fact Two: Strep infections occur mainly in the five-15 age bracket. "Rheumatic fever is an occupational disease of school children," notes Doctor Phibbs.

Fact Three: It is impossible to diagnose a strep throat by mere physical examination. Diagnosis is dependent upon laboratory tests. Doctor Phibbs notes "a reluctance" on the part of some of the medical profession to accept this fact. "It is difficult to persuade some physicians that they cannot diagnose streptococcal pharyngitis without a throat culture, and it isn't sufficiently widely realized or accepted, he observes "that any pharyngitis may be streptococcal and may be dangerous."

Solution: Examine weekly the throat of every child in school. When there are signs or symptoms of pharyngitis, swab the child's throat and make laboratory cultures. (Rule-of-thumb: When in doubt, swab!) Isolate and treat all children with positive cultures—those youngsters indicted by lab tests as harboring the troublesome strain of strep bacteria.

As a workable remedy, the idea perhaps seems oversimplified—like a cure-all patent medicine. Yet it works as well in practice as it sounds in theory—much to the astonishment of a goodly number of people. Not the least of these is Donald Becker, M.D., pathologist at the 329-bed Natrona County Hospital (Casper's only hospital) and one of the originators of the program.

It was about 15 years ago when Doctors Becker and Phibbs first discussed the idea. They were sitting over coffee in the hospital cafeteria one bleak morning. That their ambitious long-range plans would involve a vast education of the public and a delicate reeducation of many fellow physicians didn't faze them. "Brendan Phibbs is a pretty yeasty guy, anyway," Doctor Becker comments dryly.

"But there really isn't anything magic about the program," he says. "It is the elaboration and application of something that has been known for many years. What is remarkable is that so many people have stuck with it and that it has worked so well for so long—particularly when you consider the number of links in the chain, the number of people it involves, and the number of places it could break down."

Conversely, Doctor Becker is convinced that without its small army of dedicated and capable volunteers the program would stall. "It's a case of giving people an opportunity to help themselves," he explains.

Mother-volunteers report for duty in teams of two or three on every school day in nearly every grade school in the state (about 90 percent of Wyoming's schools participate). Often they must battle the harsh Wyoming winter that can produce sudden, blinding, 60-mph blizzards. High winds whip swirling snow off the plains which can "white-out" a car in seconds, reducing visibility to near zero.

Let's travel with volunteer Judy Aurelius, attractive wife of a Casper moving and storage company operator, and mother of four, as she sets out one morning for Manor Heights, one of the city's 21 elementary schools. It's early, for like many mothers in the program, Judy usually arrives at school before many of the students. And it's bright. Despite its reputation for fierce winters, Wyoming enjoys a remarkably high number of clear days and hours of winter sunshine.

Accompanying Judy Aurelius this morning is her daughter Katy, a wide-eyed second-grader with shoulder-length blond hair. Most of the mother-volunteers have a child of their own attending the school they serve. "I've followed all my kids through the strep program," says Judy, who started about 10 years ago as one of the earliest volunteers.

Manor Heights school sits at the edge of the city close to the foot of the wooded slopes of 8200-foot Casper Mountain. Judy Aurelius' teammate, Jere Baze, already is at the school and the two exchange greetings and quickly prepare for the student influx, setting out tongue depressors, flash light, swabs, and record sheets.

Classes assemble and teachers perform the now-familiar ritual of asking if any child has a cold or sore throat. Some of the younger children have brought notes.

Youngsters who respond are sent to have their throats inspected. To make sure each child is examined at least once a week, one row of children from each class is sent every day for routine examination (at some schools they're rotated by class). Kindergarten children—the age group most susceptible to strep infections—are examined twice weekly.

"We believe the program has reduced absenteeism," says Doctor Wheatley, principal of Manor Heights, "particularly the absences of three or four days you normally expect during the winter cold season."

It's Thursday, one of the days all kindergarten children are examined. They file into the small room allotted the volunteers.

There's some jostling and a little chattering as these moppets wait in line. Two girls near the back are giggling, apparently about the boy ahead of them who sports a "Laugh-In" T-shirt. Another boy, with Indian features, drops a coin, his milk money, perhaps.

Most, though, watch solemnly as classmates get inspected and/or swabbed. Some practice saying "ah" way ahead of time. But when their turns come they open their tiny mouths on cue, like birds.

There is one recalcitrant youngster, a dark, fringe-haired boy who hangs back in the line when his turn comes. "You're not gonna put that in my mouth," he says, defiantly.

But Judy Aurelius, a veteran throat-peerer, is persuasive. Hiding the objectionable tongue-depressor behind her back, she coaxes the difficult child forward.

"Come on, let's see what kind of cereal you had for breakfast." Reluctantly, he allows his throat to be examined without use of the depressor.

With experience, volunteers become adept at spotting the tell-tale signs of strep. They are taught to look for swollen and tender glands in the neck and under the jaw, for fever, red throat, or the drainage of mucus in the throat and on the tonsils.

Jere Baze is a first-year volunteer with only a few inspection sessions behind her. Gingerly, she tries her hand at swabbing, trying to do it by the book: Place depressor way back on the tongue; swab the throat with circular motion; make sure to reach up behind the uvula. She has a large wall chart to guide her, and a partner to offer a welcome measure of encouragement.

As with many volunteer-mothers, the neophyte swabber finds hardest the point that the instructions emphasize strongest—produce gagging! "You won't hurt the child," Judy assures her, "and you must get a good moist swab from the back of the throat."

Throat swabbing is by no means a gentle art. "We're barbaric," says Dr. Rousallis. "We have to be." Then he tells of an incident that sets Dr. Phibbs apart as perhaps the most vigorous throat swabber who ever came down the pike.

The Casper team was making one of its random checks, mass-swabbing at a school in an outlying area. Dr. Phibbs and two local doctors were sharing the chores. It didn't take the visiting doctor long to acquire a reputation. After a while, each of the local physicians had before them lines of students to be swabbed. Doctor Phibbs hadn't a single customer. "But when the swabs were cultured, he had 90 percent of the positive pickups," notes Doctor Rousallis.

Doctors Phibbs and Rousallis and others from the Casper program travel frequently to other communities in the state, providing guidance and support, and making studies. In winter, most of the old hands guard against the unpredictable Wyoming weather, traveling with emergency supplies in their cars—food, clothing, blankets, and canned cooking heat.

In hours, conditions can change from a Chinook wind, warm enough to melt deep snowbanks, to the biting cold blast of a howling blizzard. "It seems we lose a salesman from back east every winter when his car gets socked in and he tries to walk for help—often in low-cut shoes—instead of sticking it out."

Back at Manor Heights, all suspect throats have been swabbed. Swabs then are numbered, listed on a corresponding sheet, and delivered by one of the volunteers to the strep lab at Natrona County Hospital.

Results of the lab work will become known the following morning when the school office is notified of those children infected with strep. Each child then is dispatched home with a note and cannot return to school until treatment has begun.

If treated that same afternoon, the student may return to school next morning. "Infectivity will have dropped so sharply the morning after an injection," notes Doctor Phibbs, "that the child is substantially non-contagious. We've tried culturing them the next day and we hardly ever get a positive culture."

When a child is shown to be infected, other members of the family—especially high-risk preschool siblings and young adults—are encouraged to go to the school and be swabbed. "If one child in the family is positive, there's a 36 percent chance that someone else is going to be positive," says Doctor Phibbs. "If

two children are infected, you almost know someone else is going to be!"

During the huge eruption of strep that struck Casper after the Asian flu pandemic of 1957-1958—three years after the program began—25 cases of rheumatic fever developed in the general population. In contrast, there were only four cases reported among the 14,000 school children involved in the program. Normally, 80 percent of the rheumatic fever would be expected to occur in this group.

"Success in controlling strep in the school population must hinge on mandatory treatment—the ability to exclude children from school," says Robert A. Zimmerman, Ph. D., a leading strep expert with the National Center for Disease Control. "Without it you probably will encounter a few critical instances where, because of lack of parental interest or perhaps for economic reasons, the child is not treated." Of course, the child then creates a little epicenter of infection in the classroom.

Doctor Phibbs suggests that legal mechanism does, in fact, exist in every state, waiting only to be enforced. "Streptococcal pharyngitis is a reportable and hence excludable disease in any school in the United States," he says.

"Exclusion for strep infections makes good sense," maintains NYU's Doctor Taranta, "when you consider that other communicable diseases—such as chicken pox—which are much less dangerous in terms of long-term complications, are considered grounds for exclusion from school."

Occasionally, when parents balk, Doctor Phibbs explains that strep results from the same organism that causes scarlet fever. "I tell them that strep throat is scarlet fever without a rash and ask how they'd like a kid with scarlet fever sitting in a school room with their children. And that's how they get the message."

"Every year," says Doctor Phibbs, "we'd have someone object on religious grounds, or we'd run into a health food enthusiast, or someone who simply doesn't like to pay for a shot for his kids. So we thought we'd nail it down with a ruling from the state attorney general."

They did. And it sticks. Last year a Christian Scientist balked at having his daughter treated for strep. Her throat was swabbed twice a week for three weeks, and she was allowed to return to school only after she produced a negative culture. "It brought a lot of 'oohs' and 'aahs' in Atlantic City [at a recent meeting of the American Heart Association] when I showed our take-home slip," Doctor Phibbs notes with a chuckle. But he also was able to demonstrate that strict enforcement had curbed strep to a prodigiously low rate.

He could say this with confidence, for only recently had the Casper program been subjected to critical scrutiny. A U.S. Public Health Service team led by Doctor Zimmerman—whom Brendan Phibbs describes as "one of the best strep men in the world"—had randomly checked strep infections of students in the Casper area.

"I'd often told him we got our rate down under five percent, and held it there all winter," Phibbs recalls. "But Bob Zimmerman was the big skeptic. He'd say, 'Bren, if I come to Casper, I'll find 20 percent strep in your kids.' So, finally, I took him up on it and they came in and did their own swabbing and processing."

The findings have surprised many clinical investigators who have made a lifelong study of strep. The team found only 1.9 percent of the students suffering strep infections. By comparison, a check of three Colorado communities showed that anywhere from 11 percent to 20 percent of these students had strep infections.

"Kids are not as sick any more with strep infections," notes Martin Ellbogen, M.D., a Casper general practitioner. "We catch them before they are symptomatic, when they are strictly carriers." Doctor Ellbogen shares the opinion of many colleagues that the strep detection program has elevated the level of medical care in the community. In some local doctors' offices the nurse may swab the incoming patient's throat as routinely as she takes his temperature.

Patients are less demanding of a penicillin shot for a cold. In fact, the citizens of Casper—particularly the schoolage population—may receive fewer doses of antibiotics per capita than the residents of any other community in the United States.

Since many colds and sore throats result from viruses, which are unassailable with antibiotics, many U.S. children in communities where family doctors do not emphasize routine swabbing, receive the drugs unnecessarily. "If a culture shows pharyngitis is not streptococcal," says Doctor Phibbs, "chances are it's viral, in which case what you really need is aspirin and bed rest."

"In the population at large, too, I think we have made educational inroads," says Doctor Phibbs, "by emphasizing that any sore throat may lead to rheumatic fever or nephritis and that it always is prudent to get a throat culture. And God help any doctor," says Phibbs, "if he doesn't take a throat culture if a mother brings a child to his office when school is out."

Public education has been achieved through the schools, through the news media, and through the vast number of mothers in the community who either serve or have served as volunteers. Some, of course, move away, and the Casper group has heard more than one anguished plea from an out-of-state public-health colleague being hounded "to set up a strep program like Casper's."

If volunteers are the program's muscles, the strep lab is the nerve center that coordinates their work. A team of four processes swabs—sometimes more than 1500 a day, including mail-ins—for approximately one-half of the state of Wyoming. A lab in Cheyenne handles the other half of the workload.

"A central lab with skilled staff and good equipment is a prerequisite for anyone considering a strep control program," says Doctor Phibbs. "And it should be a free or very cheap facility funded, perhaps, through a health department or a heart association."

Due to some determined scrounging, and the generous donation of time, space, and equipment, the Casper program has been relatively cheap, running at about 20 cents a culture. But the most important saving has been in the incalculable currency of healthy hearts and full lives.

INTERNATIONAL WOMEN'S DAY AND HUMAN RIGHTS

Mr. PROXMIER. Mr. President, today, women throughout the Nation will celebrate International Women's Day, the date commemorating the 1857 female garment and textile workers march in New York City. They feel that action now on the Convention for the Political Rights for Women would be an extremely powerful influence internationally for the rights of women.

One of the purposes of the United Nations, as proclaimed in article 1 of the charter, is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language, and religion.

One of the achievements of the United Nations toward this goal over the 25 years of its existence are substantial, but it cannot be said that the road is easy or that progress is rapid. If nations and peoples all over the world are fully to accept the idea that human rights can and should be secured through international cooperation, much new ground has to be broken and many problems and difficulties must be faced and overcome.

The Human Rights Convention on Political Rights for Women fulfills the purposes of article 1. It provides that women shall be entitled to vote in all elections on equal terms with men. It provides that women shall be eligible for election to all publicly elected bodies, to hold public office, and to exercise public functions established by national law, all on equal terms with men.

United States representatives participated in all phases of the drafting and this Government was represented in several of the committees actively and favorably urging the adoption of the draft convention. This convention was signed in New York on March 31, 1953. Sixty-eight nations have given their signature. The United States has not, however.

The right of women to vote is recognized in the 19th amendment to the Constitution. The eligibility of women to be elected and to be appointed to public office has long been recognized by law and practice. President Kennedy submitted this convention to the Senate for ratification in July 1963. Hearings were held in February, March, and September of 1967 by the Foreign Relations Committee. The convention was tabled on October 11, 1967. No further action has been taken.

It is past time for the Senate to reassert the leadership of the United States in the realm of Human Rights and freedoms. Most Americans believe, and I am among them, that the United Nations serves the interest of the United States and all mankind, because the United Nations can serve the cause of world peace. Let us recommit ourselves to the purposes of the United Nations and the rights of women by acting on the Human Rights Convention for Equal Rights for Women now.

CONGRESS AND DISENGAGEMENT: A LEGISLATIVE RESPONSIBILITY

Mr. PACKWOOD. Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. BROOKE) be printed in the RECORD.

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

CONGRESS AND DISENGAGEMENT: A LEGISLATIVE RESPONSIBILITY

(Statement by Senator BROOKE)

Mr. BROOKE. Mr. President, on Monday last I introduced S. Res. 62, proposing that the Senate assume its proper responsibility for overseeing, together with the President, disengagement of U.S. forces from South Vietnam.

My profound hope is that a thorough Senate examination of the problems associated with the historic disengagement program al-

ready initiated by the President will provide a sound basis for harmonizing legislative and executive policy on this vital issue. Like most Americans, I pray that we can devise a new consensus among ourselves and between the branches of government.

Toward that end, my proposal, very simply, would call upon the Committees on Foreign Relations, Armed Services and Appropriations to consider all of the factors involved in our disengagement from this undeclared and unduly prolonged war, and to come forth with a joint recommendation for withdrawal which could have the support of this government and of the American people.

I am pleased to say that this proposal has received the support of Mr. John W. Gardner, head of the bipartisan citizens' group, Common Cause. It is with pleasure that I received his warm letter of endorsement and I ask unanimous consent that the full text of his communication be printed at this point in the RECORD.

COMMON CAUSE,

Washington, D.C., March 5, 1971.

Senator EDWARD W. BROOKE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BROOKE: I write to express my support for your resolution calling upon the Senate Foreign Relations, Appropriations, and Armed Services Committee to investigate the requirements and consequences of the orderly withdrawal of all armed forces of the United States from Indochina.

As you know Common Cause has launched a national campaign working with our more than 100,000 members and with other organizations in an effort to persuade the Congress to exercise its constitutional responsibilities and to legislate American disengagement from Indochina.

The suggestion, contained in your speech accompanying the resolution, that the three committee chairmen designate a joint body to hold suitable open hearings seems to me to be eminently desirable. Congress must take the lead in showing the people that our institutions of government are responsive to their demands. Your resolution is an excellent starting point and I am glad to endorse it.

Sincerely,

JOHN W. GARDNER,
Chairman.

COMMEMORATION OF AMERICAN DISABLED VETERANS DAY

Mr. MCGOVERN. Mr. President, it is important that, for the golden anniversary of Disabled American Veterans Day, we reflect on the debt the Nation owes to our disabled veterans and to the Disabled American Veterans organization for their work in service to their members.

In particular, I wish to take note of the service provided in my own State of South Dakota by the Disabled American Veterans Department of South Dakota, under the direction of John P. Redmond, its commander. I want to thank the department for myself and for the people of South Dakota.

The recent achievement of our department is quite notable. It consists of 10 chapters, two of which were just started this year. The membership for the year has increased by 30 percent. The officers come from every corner of the State. The department provides volunteer work in VA hospitals in Sioux Falls, Hot Springs, and Fort Meade and

at the State veterans home in Hot Springs. Special thanks is due to the auxiliary for their help in this work. The department has a full-time national service officer, Donald Halligan, whose office is located in the VA center at Sioux Falls.

We have some 7,000 wartime disabled veterans in the State of South Dakota. The Disabled American Veterans of South Dakota give invaluable time and assistance to veterans needing hospitalization, education, or the establishment of claims. They have given the fullest support to the various POW and MIA projects and programs.

The service of the Disabled American Veterans of South Dakota is exemplary of the national effort which represents the best qualities of our people. Their work is a testament to the kind of concern and commitment that will redeem this great but deeply troubled land.

DAV Day in Congress has very fittingly been called a tribute to quiet courage. These are men who understand the greatest burden of our involvement in the war in Asia—the extreme suffering and sacrifice it has exacted. Yet their response has been a profoundly humane and constructive dedication. This is courage in the best sense of the word; quiet courage, without notoriety or glory but deserving of the deepest respect and gratitude of the American people

CAMPAIGN REFORM

Mr. MATHIAS. Mr. President, the need to reform political campaign practices is evident to all of us. There have been a number of proposals advanced to achieve reform, and I am hopeful that legislation will be forthcoming this year.

The Commerce Committee Subcommittee on Communications, under the leadership of its distinguished chairman (Mr. PASTORE), has moved promptly to conduct hearings on this problem. Last Wednesday, the distinguished minority leader (Mr. SCOTT) and I had the opportunity to appear before the subcommittee and discuss the comprehensive campaign reform bill we recently introduced, S. 956.

I ask unanimous consent to have printed in the RECORD the testimony submitted by the minority leader and myself at that time.

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

JOINT STATEMENT OF SENATOR HUGH SCOTT AND SENATOR CHARLES McC. MATHIAS

Mr. Chairman, we very much appreciate this opportunity to express our views on the critical problem of political broadcasting. As you know, we have recently introduced a comprehensive campaign reform bill, S. 956, which does have provisions relating to political broadcasting, and advertising as well.

About one year ago, this Subcommittee took an important step in favorably reporting legislation to repeal the "equal time" requirements for Presidential and Vice Presidential candidates and to require that broadcast time be sold to candidates at so-called "lowest unit rates". That bill (S. 3637) took the right approach. It wasn't until it reached the Senate floor that the bill became entangled in a vast political web. The rest is

history. We seek now to begin again, using that which has been proven sound and adding some new dimensions.

Our bill, as did last year's, repeals the Section 315(a) requirements for "equal time" only as they relate to the office of President or Vice President. S. 956 also requires that the sale of political broadcast time be made available to all legally qualified candidates, at lowest unit rates. We have amended this particular provision to offer the preferred rates only during specified pre-election periods—four weeks before primaries and six weeks before general elections. Of course, political advertising time may still be obtained, at the regular rates, prior to these pre-election periods. Our intent here is to shorten election campaigns by encouraging candidates to use time during periods immediately prior to elections, rather than three or four months ahead.

We believe the inclusion of these two provisions is a *must* for any political broadcasting bill. Repealing the "equal time" requirement for Presidential elections would provide for greater contribution of free time by broadcasters. Selling political broadcast time at preferred rates assures candidates the fairest break they can expect in their purchases.

Our bill also requires that broadcasters may not refuse to sell "reasonable" amounts of political broadcast time to all legally qualified candidates for public office. While we recognize the pitfalls in employing the word "reasonable", we wish to make clear our intent. We want to assure that those few broadcasters who happen to favor incumbent candidates cannot continue to do so by forbidding the sale of time to the opposition as well.

Additionally, S. 956 directs the Federal Communications Commission to report back to Congress, within one year from the date of enactment, on the implementation of the broadcast provisions, with recommendations for supplementary or corrective legislation.

The second part of our political advertising section deals with nonbroadcast communications media—specifically, newspapers, magazines and other periodical publications, and billboard facilities. In this regard, we assure that political advertising space purchased by candidates for Federal office is offered at lowest unit rates during the previously discussed pre-election periods.

In our attempt to treat equitably *all* media, broadcast and nonbroadcast alike, we further recognize the legitimate extent to which the Federal government may go in this regard. The language of the bill is specific enough to include only newspapers, magazines and other periodicals, and billboard facilities. Our constitutional basis rests on Congress' right to regulate the conduct of Federal elections and on Congress' right to regulate commerce, including postal rates for news distribution. Our bill, however, would not abridge the Constitutional guarantees of free press as protected by the First Amendment. Simply stated, the bill does not require such media to make available any of its space, but if it chooses to make its space available for one candidate for Federal office, then it must make an equivalent amount of space available, at the same rates, for all other candidates for such office. We believe these requirements to be reasonable and equitable.

Some discussion is now in order in regard to the imposition of ceilings on the amounts candidates may spend in election campaigns. S. 956 was presented to the Senate with a heavy reliance on disclosure, as opposed to limits, to curb abuses and excesses. In regard to political broadcasting, we feel that the imposition of ceilings would do considerable damage to the political system.

First, limits on spending, if such limits are low, tend to favor incumbent candidates.

Fully recognizing that the Congress might prefer legislation giving incumbents an edge, we honestly believe that a good reform bill should attempt to equalize the campaign vis-a-vis the challenger. As such, we don't want to give the incumbent excessive advantages. But, we do want to give the challenger proper access to those same advantages. Limits on political broadcast spending might perpetually exclude from office those challengers who will need to spend more money than incumbents to get the same kind of public recognition.

Second, every campaign is different. Some utilize more television than others. Some utilize no television at all. We must not attempt to dictate a candidate's approach to his campaign. We must allow him all the flexibility he needs to reach the electorate.

Third, as the cost of media time goes up, and a ceiling is in effect, candidates will be buying less and less time as the years progress. We all know that our dollars do not buy as much now as they used to buy. Whatever efforts the Administration is making to curtail inflation, there is simply no way to control absolutely the costs in one business or another without actually moving in to administer fully its operation.

We feel that this Subcommittee ought to place a greater emphasis on floors, or guarantees, rather than on ceilings. It is absolutely essential that candidates be allowed as much access to television and radio as they wish. To impose ceilings without offsetting them with guarantees, by subsidizing or otherwise, is to ignore the real problem—access to the media, and thus the electorate.

One more point ought to be made. Constitutionally, a good case can be presented against imposing any limits on political broadcast time. As *New York Times* columnist Tom Wicker recently pointed out, "some authorities believe that an expenditure for speech is essentially the same thing under the first amendment as speech itself. If a candidate already had spent whatever amount the law permitted, would it be constitutional to prevent some individual or group from spending their own money to express support for him, or opposition for his opponent? Again, it would be difficult to enforce over-all spending ceilings if a candidate himself was not responsible for controlling all expenditures in his behalf. Yet it seems a dubious proposition indeed that a citizen may not, if he wishes, take out an ad to express his personal political convictions. Effective enforcement would appear to limit constitutional rights; but protecting constitutional rights would make enforcement of over-all spending ceilings next to impossible."

Several days ago, we announced that the major broadcast networks approved of our approach to political broadcast reform. Unfortunately, a wire service story did not document more fully that announcement, and the consequent misunderstanding now requires a bit of clarification.

Specifically, we discussed, with the networks, the political broadcasting and advertising provisions in our bill prior to the bill's introduction. All the major networks indicated to us, at that time, that there were certain items that should be considered in any bill: 1) repeal of the "equal time" requirements for Presidential campaigns and 2) lowest unit rates, if enacted, should be enacted across-the-board for broadcast and nonbroadcast media alike. Our bill offers both of these items.

At no time did we indicate that the networks had given a blanket endorsement to our entire bill. We simply indicated their approval of the approach taken in the two major provisions of our political broadcasting and advertising section. While each of the networks may have other differences, there does appear to be some unanimity here

on these two items. And, of course, the networks can speak for themselves.

Mr. Chairman, there is no ideal solution to this problem of broadcast reform. Our bill, surely, is not offered as the panacea. However, we do believe our bill offers a solid foundation upon which to build. Congress must act this year. We commend the distinguished Chairman and members of this Subcommittee for having the courage and foresight to take the first swing at this elusive ball.

REACHING THE CENTURY MARK

Mr. MATHIAS. Mr. President, in these days of tension and turmoil, it is indeed an achievement to reach the age of 100. But it is a still greater achievement to reach that age while remaining active citizens contributing to the community. I wish to congratulate two metropolitan Washington residents—Dr. Noah Willis Pomeroy and Zachariah D. Blackstone—who celebrated their 100th birthdays on February 16. I ask unanimous consent that the articles and editorials relative to this occasion be printed in the RECORD.

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

[From the Kenwood Kalendar,
Washington, D.C.]

CONGRATULATIONS

Once again we have the pleasure of extending birthday greetings to two fine members of Kenwood Club, Z. D. Blackstone and Dr. Noah Pomeroy. This year is a real milestone—they are 100 years young on February 16th. We are sure we voice the sentiments of Kenwood's entire membership in extending the heartiest of congratulations.

Dr. Noah Willis Pomeroy was born in Washington and was well known at the turn of the century as a Dentist and amateur athlete. He later became a member of the Board of Veteran's Appeals of the U.S. Veterans' Administration. His wife of 34 years died in 1947. He retired in 1941 at 70 years of age. An expert golfer, "Pom" once sported an eight handicap and as recently as 1962, at 91, paired with Joe Gambatese, to win the club's two-man team championship for the second time in 7 years. Dr. Pomeroy shot a score equal to or lower than his age with regularity; one of the more recent times was in the National Press Golf Tournament at Kenwood in 1964, when he scored 86. In 1960 his many Kenwood friends provided a large silver trophy in his name which is awarded annually to the club's senior champion. He lived at Kenwood Club for many years and could be found almost every afternoon, with his cigar, in the men's grill playing gin rummy. He now lives at the Silgo Gardens Nursing Home, 7525 Carroll Ave., Takoma Park, Md. 20012. He enjoys cards and the frequent visits of his many friends from Kenwood.

ZACHARIAH D. BLACKSTONE

Zachariah D. Blackstone was born in St. Mary's County, Md. He is probably the world's oldest flower child. The "owner, overseer and office boy of Blackstone's Florists, is used to superlatives, being the oldest flower dealer in the country, as far as anyone knows, and the oldest holder of a D.C. driver's license. As a youngster he worked for a florist as a delivery boy, dreaming of the day he would have his own shop. This became a reality at 825-14th St., N.W. when he sank the only \$10.00 he had into the first month's rent. Now he has 4 shops. His wife of 53 years died in 1959; they had 3 children. Besides working with flowers, Mr.

Blackstone likes golf. He plays never less than 18 holes. In summer he plays here 3 days a week; in the spring and falls he plays at Pinehurst, N.C. and Sea Island, Georgia where he competes each year in the Seniors Tournament. In the winter he plays golf in Florida. "Blackie" leads an active life and has no plans for retirement. Each year he sponsors the Ladies Orchid Tournament at Kenwood, a unique and beautiful affair with hundreds of orchids which he donates.

[From the Washington (D.C.) Post, Feb. 17, 1971]

BOUQUETS FOR MR. BLACKSTONE AND DR. POMEROY

"Spry"—word usually reserved for news items about elderly people who in one way or another are still able to get around—only begins to approach a full description of Zachariah D. Blackstone, Washington's marvelously busy florist who this week breezed by his 100th birthday with a regular day of work.

More accurately, you might say that Mr. Blackstone is downright vigorous and far more energetic than a lot of us. The business he founded here 73 years ago now does more than \$1.5 million in sales annually, at four stores with 75 employees. What's more, Mr. Blackstone is on hand at the main store, at 1407 H Street N.W., every morning—seven days a week—"365 days a year, except when I'm out of town." He reports in at 7:30 a.m. (except on Sunday, when he attends church at 8), after a round of calisthenics and some 200 yards of pacing in the hallways of his apartment.

Once in the shop, Mr. Blackstone is not content to sit back and play executive. He prefers to oversee personally the operations, tend to the flowers and run "up and down the stairs 50 times a day." Once in a while, he used to play golf with Dr. Noah Willis Pomeroy, a retired dentist who also celebrated his 100th birthday on the same day. (Dr. Pomeroy gave up the game two years ago).

To celebrate the centenary of these two men merely because they have made it to a particularly "ripe old age" might be enough. But both Mr. Blackstone and Dr. Pomeroy merit more than a routine tribute from the community, for they are outstanding citizens whose achievements and contributions to this town have shown a delightful disrespect for their ages. To both of them, many happy returns of the day.

[From the Washington (D.C.) Post,
Feb. 2, 1971]

BREAKING 100: LIFE (OVER), GOLF (UNDER)

Said Zachariah D. "Zed" Blackstone, "I've been training like a prize fighter for this 100-year thing." The founder of the Washington florist shops that bear his name is preparing for a round of television appearances in connection with his 100th birthday Feb. 18.

Blackstone, who still "breaks his age" in thrice-weekly golf games, described a typical day in his life at the kick-off luncheon yesterday at the Mayflower Hotel for the 1971 fund drive of the Washington Heart Association. He had gone to bed the night before at 10 p.m., arisen at 2 a.m. and written for two hours before fixing himself a breakfast of sliced apples, buttermilk, whole wheat toast and "a dash of wine." Then he jogged 200 paces in place, knelt in prayer for 10 minutes, washed and dressed and went back to bed for a little catnap before going in the office. He arrived only five minutes late—at 7:35 a.m.

Asked about his future plans, the centenarian-minus-two-weeks replied that after his birthday he had promised to play in the Sea Island golf tournament Feb. 22. "But when that is over," he said, "I guess I can die."

[From the Washington (D.C.) Post, Feb. 16, 1971]

FLORIST BEGINS 2D CENTURY—PHYSICAL FITNESS IS HIS "NO SECRET"

(By Martin Weil)

Spry, smiling and still operating the flourishing florist business he founded here 73 years ago, Zachariah D. Blackstone will celebrate his 100th birthday today.

Another Washington area man, Dr. Noah Willis Pomeroy, also will become 100 today. He and Blackstone will join a group that statisticians believe includes few more than 10,000 others in the entire United States.

A unique member of a unique group, Blackstone believes he will be the only centenarian still running a flower business with four stores, 75 employees and more than \$1.5 million in sales annually.

A native of St. Mary's County, Md., Blackstone came here at 20, worked first as a florist's apprentice, then started his own business in 1898. His main store is at 1407 H St. N.W.

Arriving there "at 7:30 a.m., every morning, seven days a week, . . . 365 days a year, except when I'm out of town," he puts in a full day's work.

On Sundays he interrupts the routine briefly to attend 8 a.m. services at the Church of the Epiphany, 1317 G St. N.W.

People ask him the secret of his longevity. "It's no secret," Blackstone insisted yesterday as he stood in his shop among the chrysanthemums and anthuriums, a knife for trimming their stems hanging from his belt. "I tell people every day—physical conditioning."

The white-haired, 5-foot-8 inch 145 pounder starts the day with calisthenics in his apartment at 1425 N St. N.W., then follows with 200 yards of pacing in the hallways "until I'm puffing."

After driving to work (he believes he is Washington's oldest licensed driver) he runs "up and down the stairs 50 times a day."

Washington has changed since the days when Blackstone could "stand on (an F Street NW) corner and say 'how do you do' to most everybody who came up."

"Now I could stand there an hour and not see anybody I know," he said.

Dr. Pomeroy, a retired dentist, who also celebrates his 100th birthday today, will be honored at the Silgo Gardens Nursing Home where he lives.

Both men are members of the Kenwood Country Club where they sometimes golfed together until Dr. Pomeroy gave up the game two years ago.

[From the Evening Star, Feb. 17, 1971]

A BUNNY FOR "ZEDDY"

(By Anne Christmas)

For Zachariah D. Blackstone, his 100th birthday yesterday began a trifle late—actually at 8 a.m.—but he still was going strong to greet 500 longtime friends and fellow Washington merchants at a 5:30 p.m. reception in his honor at the Washington Hilton Hotel.

Furthermore, the dean of the city's businessmen surprised nobody by outlasting scores of relatives and friends who joined him for dinner that wound up long after midnight.

In the course of his tremendous party in the Washington Hilton's East Ballroom, "Zeddy" received gifts from the Washington Board of Trade, the Kiwanis Club, the Early Birds and the Florists' Trans-World Delivery (FTD) which already boasts an octogenarian club and made him the first member of its century club.

Even the Playboy Club of Baltimore sent over a real, live bunny in yellow costume (what there was of it) to give him a life membership and a demure kiss.

A seemingly endless receiving line didn't deter his hundreds of well-wishers from waiting 30 minutes to shake his hand at the entrance.

TWO SYLLABLES

"He's such a fine man that it's quite an honor to wait like this to greet him," observed insurance broker Tinsley Adams, himself a native Washingtonian who has known "Mr. B" most of his life.

Actually, few persons in the room realized that most of Washington's business community has been mispronouncing the family name since Z. D. Blackstone opened a tiny florist shop here in 1898 with \$10 he had saved and a few dollars he had borrowed from friends.

Although customers, competitors and others have been calling the now-expanded chain of shops "Black-is-tone," there are scores of family members who pronounce it "Blackstone," precisely as did the earliest inhabitants of Maryland when they came to the shores of Maryland aboard the Ark and the Dove in 1634.

The ancestors of Z. D. Blackstone also were responsible for naming historic Blackstone Island where the Ark and the Dove first touched land. The island also is pronounced with two syllables through the intervening centuries.

The younger generation have become perfectly oriented to the three-syllable use of their name, but they all stick to the original pronunciation, slurring over the "i" in the same soft accent of their forefathers in St. Marys County.

"All of us in the family call it Blackstone," carefully explained Paul Blackstone Krogh, 11, son of Mr. B's innumerable young relatives on hand for his big evening. Paul, his brother Peter, 10, and sister Kay, 9, were fascinated observers as their great-great-uncle made his official speech at his party.

The ballroom was decorated with Mr. B's favorite flowers, red roses, his trademark since he began promoting "the goodwill dozen," which in his firm has meant 15 roses the last 70 years.

Since his first 75-cent sale in 1898, his business sales have risen to more than \$1.5 million annually.

He still drives his own car and goes to the wholesale market before dawn to select the freshest flowers. This week, however, he has been given the use of a chauffeur-driven red "car for the young at heart," a Mustang Mach I, by his Kiwanis Club buddies.

Last night's mementoes included a telegram from President Nixon, with whom he had attended religious services at the White House last Sunday in honor of his birthday last week.

[From the Washington (D.C.) Post,
Feb. 24, 1971]

WASHINGTON'S BLACKSTONE ACHIEVES GOAL AT AGE 100

SEA ISLAND, Ga.—Senior golfer Zachariah D. Blackstone, dapper in sweater and slacks and with a 22-year-old female companion tagging along, warmed up on the 6,650-yard Sea Island Golf Course today and announced he was ready for 18 holes Wednesday.

"I was just warming up," Blackstone said of his five-over-par 55 for today's nine holes. "Tomorrow I'm going to play the full 18."

Blackstone, a Washington, D.C., florist, turned 100 years old on Feb. 16. He is believed to be the oldest tournament golfer in the country.

Blackstone, of Kenwood Golf and Country Club is appearing in the Sea Island Seniors golf tournament—where 55 years of age or older is a prime requirement for players—on this sunny isle off the Georgia coast. His partner is A. J. Hendley, also from Washington and a mere youngster of 85.

Appearing rather than competing in the tournament is a better way of describing Blackstone's performance here, says Sea Island pro Eddie Thompson, host to 150 senior amateur golfers in the tourney.

"He set a goal to play here when he was 100 and that's what he is doing," Thompson said. "But he and his partner are playing along with rather than competing with the other golfers. He's sort of lending color to the tournament."

Thompson said Blackstone first played in the Sea Island tournament at the age of 89 and said then that he looked forward to playing the course at 100.

"He's pretty good, considering," Thompson said. "He doesn't drive so far but he is consistent."

Blackstone himself admits his drive is not as long as it once was, maybe 100 to 125 yards, where once it was 200 or more.

And he can't remember when he first took up golf.

"I remember winning a prize at a tournament in the Columbia Country Club in Washington in 1910," Blackstone said. He was 39 years old then.

Tournament officials assigned Kathy Hite, Southern women's amateur champion, to ride along on the golf cart with Blackstone and Hendley. She said she picked up quite a few pointers from her companions.

"I work every day when I'm back in Washington," Blackstone told a reporter. "But right now I'm just relaxing, playing gin rummy and talking to the girls."

"Did you say you were chasing the girls?" the reporter asked.

"No, sir," Blackstone answered. "I don't chase them any more. I just talk to them. I'm like a sailor, I've got a girl to talk to in every port."

CONNECTICUT'S ALL-AMERICA CITIES

Mr. RIBICOFF, Mr. President, each year Look magazine, together with the National Municipal League, chooses 11 communities across the Nation as All-America Cities. Any Senator would be proud to have a city in his State selected for this impressive honor.

This year is special, however, for Connecticut. The jury of distinguished citizens and experts on government chose not one, but two Connecticut communities, Enfield and Bloomfield, as All-America Cities.

These two municipalities were selected because they faced up to and began solving two of the most important problems facing American cities today—racial separation and outmoded, unresponsive forms of local government. They showed that it is possible in this era of skepticism and alienation to gather citizens together to solve the problems of their communities.

Bloomfield is a suburb of Hartford, a city which has unfortunately been hit by racial tensions. As blacks moved out into Bloomfield it became clear to some farsighted citizens and local authorities that Bloomfield would be the victim of similar strife unless some action were taken. These men and women alerted the townspeople to the danger. Together, they developed a voluntary busing plan to avoid the possibility of an immediate racial imbalance in the schools. They also undertook a school building program designed to avoid this problem on a long-term basis.

Enfield was a small town on the Connecticut River near the Massachusetts border until 1950. However, in the past two decades industry has entered the area, and the population doubled as the town developed into an important regional commercial center. As in Bloomfield, a few farsighted citizens realized that the town was going to face a serious crisis. Enfield was governed by an archaic, part-time government unable to provide the services an enlarged Enfield would need. A citizens government reform group was formed and convinced the townspeople that action had to be taken soon or chaos would result. The voters of Enfield took that advice and approved a modern council-manager plan of government based on the National Municipal League model.

It is hoped that other cities and towns in Connecticut and across the Nation will use Bloomfield, Enfield, and the nine other All-America Cities as examples of how concerned citizens can make their hometowns better places in which to live and work.

I ask unanimous consent that the portion of the Look magazine article concerning Enfield and Bloomfield be printed in the RECORD.

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

ALL-AMERICAN CITIES

BLOOMFIELD, CONN.

In the late 1950's, a number of citizens of Bloomfield thought they detected the cancer of de facto segregation—a concentration of blacks—in the Blue Hills elementary school. At the same time, the idea of a middle school for grades five to seven, that would separate upper-elementary pupils from primary-grade kids, was being discussed. Dr. Howard Wetstone, a board of education member for 14 years, recalls: "A lot of us felt the middle school was a good idea, and when we saw one pocket becoming black, we figured we could plan to integrate the middle school and improve our educational program."

An effort to inform the community followed. A school census confirmed the fears of de facto segregation. Blue Hills numbered close to 50 percent nonwhite; other schools, as low as 1.5. The issues were discussed at town and neighborhood meetings. A report on the situation went to residents. Compulsory two-way busing was rejected in favor of a voluntary tack. A committee hired four workers to canvass Blue Hills families in search of children to ride buses to other schools. About 150 black kids have transferred annually since the program began. Mrs. Ruth Mantak was one of the few whites whose daughter chose Blue Hills. "I think more white children's parents would have volunteered but nobody attempted to get them. My daughter is happy; she says Blue Hills is the best school in the whole world."

Busing, strictly a board of ed decision, moved Bloomfield down integration road. But the new middle school required taxpayers to accept a \$5.5 million bond issue plus involuntary integration. The Chamber of Commerce approved the idea of the middle school but wouldn't buy the cost. A Citizens for Community Coordination opposed the project because some members didn't like integration, others felt themselves deceived or manipulated. Tempers heated, but the bond issue squeaked by at the polls.

Roy Craddock, from the black community, sees benefits already in busing. "The feedback from parents and from observations

shows that you can't completely overcome color identity, but it's fading. We're seeing mixed participation and representation in things like the PTA."

A few whites talk of a climate of fear caused by the controversy. But Alvin Wood, a black Hartford principal who grew up in Bloomfield, says, "If opened on the basis projected, I think the middle school can have a great and good effect."

ENFIELD, CONN.

A bedroom community—the good life for wives and kids and a soothing refuge for blue-collar breadwinners who prefer the clean air and do-it-yourself life of suburbia. That's what thousands of young marrieds found in Enfield, near Hartford. Since 1950, the population has exploded to almost 50,000 residents, which more than doubles the head count taken 20 years ago. Home builders, with few zoning and planning restraints to hinder them, grabbed old tobacco farms and hammered out moderately priced dwellings (over 1,000 new homes annually during the sixties) that families quickly filled. As easy-going Enfield continued to bulge, it awoke from its peaceful suburban dream to face a serious city-sized crisis.

The majority of Enfield's skilled workers earned their money out of town but expected to get the same kind of municipal services in Enfield that were provided in other cities. But Enfield's part-time local government hadn't the muscle or money to get things done. The building boom continued, and the state health authorities became increasingly concerned about the concentration of septic systems handling waste disposal in the new developments. Families not only earned their money in other cities but spent most of it outside Enfield. Commercial and industrial growth was slow, and real estate taxes zoomed.

What hurt most was the hopeless educational system in which children got their schooling on the run—in double sessions.

Eight years ago, Enfielders started to change the course of a city headed for disaster. A citizens' government-reform group went into neighborhoods with coffee-and-talk hours, telephone campaigns and a television program. The result: A sluggish, old-guard government was replaced by a modern council-manager plan based on the National Municipal League model. The new system costs people more money, but voters like the way it works and show their support at the polls. Though it took \$23 million to straighten out the school mess, Enfield got up the money. It now has ten new schools. To insure the health of their families, Enfielders also backed an \$18 million sewer-construction program, a Drug Advisory Council and a Mental Health Center.

Costs are still high, but new industries, which take over some of the tax burden, are settling in Enfield, and new shopping complexes will make it one of the smartest retail centers in New England. Enfield is paying the price of progress, but it's still a nice place to raise a family. That's the way it wants to stay.

SOCIAL WELFARE PROGRAMS

Mr. CURTIS. Mr. President, Congress has before it a number of proposals to expand our social welfare programs. Before Congress acts on these proposals, it would be well for us to consider the cost of such proposals and the impact upon our economy. It would also be well that we consider the situation with respect to other countries which have operated as a welfare state.

Mr. President, I ask unanimous consent to have printed in the RECORD an

article from Barron's Weekly for March 1, 1971, concerning the welfare state in Sweden. It is entitled, "Caught in the Middle." Also, I ask unanimous consent to have printed in the RECORD an editorial published recently in the St. Paul, Minn., Pioneer Press, entitled, "Sweden's Class Struggle."

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

CAUGHT IN THE MIDDLE: THE WELFARE STATE IN SWEDEN IS WAGING CLASS WAR

"STOCKHOLM, February 23.—The Swedish Government, facing the most severe labor conflict in postwar years, announced tonight that 3,000 army officers would be locked out of their bases next week in a move to bring pressure on striking Government employees. The lockout, to start March 4, would bring the number of striking and locked-out Swedes—including teachers, railwaymen and civil servants—to 50,000. It was believed that this would be the first time that a government has locked out members of its own armed forces in a labor conflict.

"Defense Minister Sven O. M. Andersson said that all key officers manning radar stations and holding key mobilization positions in the army, air force and navy would be exempt from the lockout to insure the nation's security. 'In a crisis situation we would, of course, call off the lockout immediately,' Mr. Andersson said."

Apart from occasional lapses like granting Nazi forces transit to Norway, harboring GI deserters and furnishing economic aid and comfort to Castro's Cuba and the Vietcong, Sweden has cherished its neutrality for a century and a half. While the rest of the free world might look askance at the foregoing tactics, such a peaceful sanctuary perhaps won't even miss three thousand army officers. One way or another, however, the Swedes of late indeed have been deprived. According to the Swedish Information Service, virtually all railroad traffic has come to a halt since February 5. Customs officials have abandoned their posts, thereby sharply curtailing air freight shipments from abroad. Owing to a lockout of teachers, classes have been suspended for 700,000 students in high schools and universities. Since 2,500 members of the Swedish Confederation of Professional Associations (SACO) went on strike a month ago, walkouts and lockouts have spread far and wide, encompassing meteorologists, librarians, dentists and planning engineers. Nor is an early end to the unprecedented turmoil in sight.

In the land of the enlightened middle way, where in theory nobody has too little or too much and everyone lives at peace with his neighbor, this might be called a striking turn of events. Though sadly neglected in the American press (which could not ignore the headline making military lockout), the month-old dispute—and the Swedish government's uncompromising response—suggest that in perhaps the most overtouted workers' paradise of all, something has gone wrong. So it has. As more than one collective has learned to its cost, "equality and solidarity," watchwords of the newly elected regime of radical Socialist Olof Palme, come high. In Sweden they have led to a step-up in the rate of inflation, to a barely tolerable 6%-7% per year, as well as to heavier levies on people already burdened by a back-breaking tax load. Again, in an ominous break with tradition (not to mention the homely wisdom in the fable of the goose that laid the golden eggs), Stockholm has plunged into direct ownership and control of companies and industries. Doctrinaire passions, finally, have spawned egalitarian extremes in wage negotiations and income policy, which, in turn, have triggered the bitter reaction of

underpaid professionals and public servants. In the mixed economy, by a kind of Gresham's Law, the bad inevitably drives out the good. In the 20th Century, as in 19th, no nation can exist half-slave and half-free.

Measured in terms of what people keep of their earnings after taxes, that roughly describes the state of Sweden today. One invariably reads about the Utopian aspects of Scandinavian life: low unemployment, free university education, paid vacations for weary mothers. The cost is rarely mentioned. Yet it is very high and perennially on the rise. Swedish taxation last year exceeded 41% of the gross national product (compared to 27.7% in the U.S. and 21.8% in Switzerland). Shortly after the September elections (the Social Democrats, while losing their majority, stayed in power by making common cause with the Communists), new taxes were imposed. For 1971, a steeply graduated national and municipal income tax exacts a punitive 87% at the \$29,000 salary bracket, while a new net wealth tax has been piled atop it. Furthermore, the value-added tax on home appliances, passenger cars and boats went up from 11%-14% to 15%, the levy on private consumption of electric power from 7% to 10%. To worsen the pinch, prices in 1970 advanced nearly 7%, according to official statistics, which, in Sweden as elsewhere, doubtless understate the case.

On balance, the system for a long time somehow seemed to work. Over the years, with a big assist from neutrality in two world wars, Swedes acquired a standard of living ranked (despite a miserable housing shortage) fairly close to that of the U.S.; one way or another, the Social Democrats have remained in office for a generation. Perhaps emboldened by success—or, more likely, pushed by the political imperative of their credo—the Socialists lately have taken a harder line. While professing neutrality, Stockholm has furnished economic aid to both Cuba and North Vietnam; anti-Americanism, contrariwise, has been rampant. On the domestic scene, the powers-that-be, breaking with wise and time-honored practice, have refused to settle for merely sharing (lion's share, to be sure) in the fruits of industry and labor; instead, despite a virtually unbroken record of failure, bureaucracy has opted for aggrandizement of the public sector.

On this score, a Swedish correspondent recently wrote us: "A state-owned nuclear power plant, built at a cost of, I think, around \$100 million, turns out not to be usable at all, no doubt the largest white elephant in Swedish history. The government claims, with some accuracy, that technology had not developed sufficiently by the time the project was started; other authorities say that the government had clear warning of the risks, but chose to ignore them. In any case, the failure does not do anything to help an already poor record. Events in recent months add to the debit side. At one point, it was discovered, (much to everyone's consternation) that one part of the sprawling state-owned-industrial sector was planning to build a plant for production of disposable hospital supplies, while another part had signed a joint-venture agreement with American Hospital Supply for that very purpose. More serious has been the failure of Kalmar Verkstads AB, a company taken over by the state some years ago with the intention of re-directing it into more promising lines in order to maintain employment in that area. One of the new products developed was an automatic parking apparatus, a kind of Ferris Wheel device that would allow several cars to be parked in one parking place. Not one of the gadgets was sold, despite considerable fanfare and that product was abandoned.

"More solid was the development of an ultra-mini car, the 'Tjorven,' intended for use as a delivery vehicle in cities. Some of

these have been sold (mainly thanks to the state's aggressive sales efforts to itself in the form of the post office), but not enough—last week it was announced that 200 employees were being laid off because of insufficient Tjorven orders. Perhaps the most embarrassing failure has been the collapse of a company which was mainly intended to promote efficiency in state enterprises and elsewhere—Rationell Planerings AB, a kind of consultant operation. Results have been so bad that the company is now being liquidated. . . . The name of the ill-fated company, by the way, means "rational planning."

Where ideology is concerned, evidently, failure doesn't count. "Equality and solidarity" lately have thrust their way into the realm of collective bargaining. In progress for some time in heavy industry, where an effort to narrow wage differentials paid skilled labor precipitated a long and bitter dispute in a state-owned iron ore mine, the movement lately has spread from mine and mill to office. Various dubbing the College Graduate Walkout and the Luxury Strike, the mass shutdown now afoot plainly reflects the widespread, and mounting, discontent of Swedish professionals and civil servants. Owing to lagging wages and rising prices, both groups in the past two years have forfeited an estimated 7% of their purchasing power. To make up the ground already lost (and that threatened by persistent inflation), their unions are seeking a 22% raise. The government, through its agent, the Collective Bargaining Office, has offered 7%, and, in a kind of Boulwarism with a gun, refuses to budge. Last Friday an aide to Premier Palme (whom *The New York Times* described as "seated beside a table on which rested Charles A. Reich's book, 'The Greening of America'") observed: "We are not an egalitarian society but the aim is to create one." Gunnar Myrdal, who has done as much as any man to further the cause, was quoted as saying: "The organized welfare state has gone mad . . . It's become a class struggle."

SWEDEN'S CLASS STRUGGLE

Sweden, often called the world's "most advanced" welfare state, has found that virtual elimination of poverty does not produce an end to social and class struggles.

The country is embroiled in the worst labor troubles in 25 years. Inflation is rampant. Taxes are near confiscatory levels. Many people retire early, complaining so little is left of their take-home pay after the tax bite that there's no point in keeping a job. Yet the government still is in financial straits. The quest for an egalitarian Utopia with complete cradle-to-grave welfare for everyone has not worked out in practice as the theorists had hoped.

For nearly a month the nation has been disrupted by unprecedented strikes among both blue collar and white collar workers—including even judges and army officers. In turn the government has imposed lockouts in sectors of public employment. In some respects the situation has developed into a rebellion of "upper class," high status groups against what they consider government discrimination in favor of industrial workers.

Gunnar Myrdal, the famous Swedish economist and sociologist, said in Stockholm: "The organized welfare state has gone mad. The situation involves a strike of well paid government employees who shouldn't have the right to strike in the first place. It's become a class struggle with academics and civil servants seeing the lower classes creeping up on them, and not liking it at all."

Steady advances in industrial wages have not been accompanied by comparable increases in status jobs. The professional and white collar people argue that they are taxed so highly their once satisfactory salaries are no longer adequate.

Sweden's taxes are among the highest in the world. A person earning \$10,000 a year may pay out 44 per cent of that amount in income taxes. In addition sales taxes on consumer items run up to 17 per cent.

Sweden's goal has been an egalitarian society, where all people are equal. But the fact appears to be that people don't want to be equal. The disappearance of poverty does not produce social content and happiness. Thus fundamental concepts of the welfare state theory are under challenge from the people supposed to be its chief beneficiaries.

BIG LABOR LEADERS MAKE SELF-SERVING STATEMENTS

Mr. FANNIN. Mr. President, it seems strange that one of the instigators of our current inflation dilemma should be the one to do most of the throwing of stones.

I see a report in the press today that George Meany, president of the AFL-CIO, is putting all the blame for inflation, unemployment, and business stagnation on the Nixon administration.

This is absurd.

Where were Mr. Meany and his colleagues in 1967 and 1968, when our economy was becoming overheated and the current economic situation was initiated?

We know where they were. They were in the forefront of those who were calling for more coal to be tossed on the fire.

Certainly Government must take a major portion of the blame for the current problems. Excessive Federal spending did set in motion excessive inflation.

Certain Federal laws, such as Davis-Bacon, which President Nixon recently suspended, did help union workers on Federal projects win excessive wage increases. Federal, State, and local laws and regulations biased toward unions have fed an exorbitant wage spiral in crucial industries, such as construction.

Mr. Meany would further feed inflation and unemployment by raising the minimum wage from \$1.60 to \$2 per hour.

This would, in some cases, force more marginal industries and factories to close down, thus increasing unemployment and swelling the already overloaded welfare rolls.

It would, in other cases, simply mean that the manufacturer or store owner would pass the 25-percent increase in labor costs on to the consumer. Thus the cycle of unemployment and inflation moves on.

I am aware that the leaders of big unions have little sympathy with—or desire to preserve—small businesses. They would just as soon have huge, unified industries where it is easy to collect their dues and easy to effect crippling strikes.

High minimum wages do not have much of an effect on the big businesses. Most of them already pay over the minimum anyway.

There are, however, many thousands of small businesses in our Nation, and these often are the backbone of smaller communities. I do not want to see these small businesses forced out of the picture.

Mr. President, the people of the Nation

must realize that the giant union officials are leading the American economy to runaway inflation, which, if not checked, will greatly destroy the purchasing power of the dollar.

Already our economy is in deep trouble with increased difficulties projected if the power of union dictation is not curtailed.

The U.S. Bureau of Labor Statistics reported early in December 1970, compensation on the average in the United States, had gone up about 7 percent in that year along with rising unemployment.

The 7 percent is double the average increases in the 1960-65 period. The inflationary trend in those years were charged to deficit Government spending and Federal Reserve monetary policy—those policies were the start of our present inflation beginning in the 1966-68 years, but now being skyrocketed by the irresponsible wage increases being forced onto our economy without increased productivity.

Settlements with the unions over the past 3 years in the construction industry have averaged in excess of 15 percent with a further acceleration in the third quarter of 1970 providing a first-year increase of 22 percent. That is almost 2½ times the amount provided in manufacturing settlements whose 9 percent is excessive and over the overall national average.

Over all of recorded economic history, with only brief periods of divergence, the price level has risen or stayed level or declined precisely in line with the unit labor cost, the cost of labor for each unit of output.

In the past as the decline in demand was followed by declines in the output and employment, the rate of wage increases fell back and soon afterward, the rate of inflation. But now the normal economic forces of supply and demand have not been possible because of the dictatorial power of union leaders being protected by Federal inequitable labor laws. Industries in many instances have the choice of yielding to strikes for excessive wage increases or facing bankruptcy.

Instead of giving an incentive for management and labor to cooperate and coordinate their efforts for common benefits which would result in sharing progress with consumers, they promote conflicts penalizing all involved, especially the public.

The union officials argue the corporations have excessive profits quoting increases over a prior period as proof but seldom evaluating profits with the percentage of return on investments.

In 1970, it cannot be argued that on the whole profits were a cause of inflation. From preliminary reports corporate profits in 1970 will turn out to be the smallest as a percentage of the gross national product, for any year since World War II. They were on the low side in 1969—and the stock market reflects the conditions in 1966, 1967, and 1968.

But so long as union officials exercise monopoly power in the marketplace and

in the legislative bodies of our land, a free labor market will not function.

French economist Michael Garibol, in a New York Times article of December 3, entitled "A Warning to the Dollar," stated:

The Americans are no longer in a position to modify a policy that is getting out of control as they sink gradually into the permissive society. This bodes ill, in the eyes of Europeans.

The deficiency of competitive discipline has been greatest in the collective-bargaining area, but it is also a growing factor in the pricing area.

What is the reaction of the union officials to this threat to our economy and to the dollar?

"We will be fighting the White House on almost every major issue," said a spokesman for George Meany after the mid-February AFL-CIO leaders meeting in Miami.

One indication of their determination to have the taxpayers help finance their strikes was the demand of a more liberal food stamp program.

Mr. Meany is carrying through on his avowed program of obstructionism. Whatever the administration proposes, Mr. Meany will automatically say it is bad.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's Washington Post reporting on the latest AFL-CIO statement.

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

AFL-CIO ASSAILS NIXON ON ECONOMY

(By Frank C. Porter)

The AFL-CIO urged the Congress today to seize the legislative initiative from President Nixon, castigated his administration for economic stagnation, and reaffirmed organized labor's determination to press for substantial wage increases in 1971.

"Wage and salary earners did not cause the inflationary rise of prices, nor have they been its beneficiaries," said AFL-CIO President George Meany in a 48-page statement to the Joint Economic Committee. "They are among its chief victims."

The federation called for the "complete rejection" of Mr. Nixon's revenue-sharing program, for full funding of existing categorical grants in aid (which would add \$6 billion to the budget), and a complete federal takeover of welfare costs.

It also urged increasing the present federal minimum wage of \$1.60 an hour to "at least" \$2, a new round of tax reform, a federal urban bank and land use policy, a capital budget separate from general operating expenses, a comprehensive national health program, an overhaul of foreign trade policy, modernization of state and local governments, a federal program of public service jobs at the state and local level, and a federal tax credit for state income tax payments.

Although the AFL-CIO white paper, released in advance, addressed itself to Mr. Nixon's annual economic report delivered early last month, it was in effect labor's own economic report. Much of it had already been tracked over in a spate of separate statements turned out by the federation's executive council at its midwinter meeting a fortnight ago in Miami Beach. Meany's statement pulled them all together.

STRONGEST YET

It was the strongest denunciation by labor as yet of Mr. Nixon's economic policies.

It lambasted the White House's old economic "game plan" for producing "a prolonged recession and increasing unemployment, combined with an accelerated rise of living costs."

It called the new game plan "a half-hearted exercise in success-through-optimism" which is impotent to carry the economy out of stagnation into a sustained upturn.

Meany reeled off a long list of alleged shortcomings of the Nixon administration—recession, unemployment, inflation, "solicitude for corporate America," "prodigal" depreciation allowances, program cutbacks, vetoes of education and health and manpower legislation, the inability to provide leadership and cope with domestic problems—and said working men and their unions are "looking to Congress to fill the void."

"In the light of the Nation's experience over the last 26 months, the AFL-CIO submits that the Congress cannot look to the executive branch to offer a coherent, progressive legislative program designed to meet the needs of the present," he said.

"We believe the Congress must take the initiative in shaping such a program on behalf of all the people."

Although Meany spoke only for the 13 million members represented by the AFL-CIO, many of his sentiments are shared by unions outside the federation. For example, Leonard Woodcock, president of the independent United Automobile Workers, had similarly called upon Congress to seize the initiative from Mr. Nixon in earlier testimony before the Joint Committee.

Meany noted "outcries in the news media about the size of collective bargaining settlements" and admitted "there have been some large ones."

MOSTLY MODEST

But he insisted that "the overwhelming majority have been modest in the face of the accelerated rise in living costs" and observed that Labor Department figures show that last year the average hourly earnings of non-supervisory workers on private non-farm jobs rose only 5.9 per cent. This was a shade under the 6 per cent increase in consumer prices, he said, without taking into account the 3.3 per cent annual trend increase in output per man-hour.

"The record since 1960 clearly shows that the accelerated rise in living costs came long before the push for larger wage settlements," Meany said. "That push is a reaction to inflation, not its cause."

Summing up, Meany claimed that "the income gains of workers lagged considerably behind the gains of other groups in the society."

LIST OF COMPLAINTS

On income-sharing, the AFL-CIO had a variety of complaints.

One was that, by cutting back on other programs, the proposal "will not add one federal penny to the money available to the states and localities."

Another was that priorities for specific American problems would be virtually discarded since the states and cities would receive the \$5 billion in federal revenues proposed by Mr. Nixon without any strings.

There is no reason to believe that each of the 50 states and 81,000 cities, boroughs, townships and school districts is in a better position to weigh and balance national priority needs and use federal funds to meet them more effectively and efficiently," Meany said.

Many of the arguments by Meany and the AFL-CIO against present national economic policy were advanced last night by Leon H. Keyserling in an address to the 40th annual

convention of the National Housing Conference here.

Keyserling, chief economic adviser to Harry S. Truman and roundly snubbed by the Kennedy and Johnson administrations, reiterated a thesis that is slowly gaining grudging acceptance among a few professional economists

"A reasonably full economy has turned out to be the less inflationary in the long run, and a stagnant or recessionary economy fans inflation."

Mr. FANNIN. Mr. President, we can only hope that the people of our Nation will not be taken in by the self-serving statements of big labor leaders.

The blame for the beginning of our current inflation and unemployment lies with the Johnson administration and organized labor. The blame for the continuing inflation and unemployment is primarily with unions.

Spiraling wages are forcing factories to close their doors or move overseas. Wage increases result in price boosts that are causing consumers to cut back on their purchases.

Mr. Meany may be right in saying that Congress should show more initiative in combating inflation and unemployment. We could begin by repealing or revising a number of our labor laws which give unions the powers they have chronically abused in recent years.

TIME FOR REFORM OF RAILROAD RATE STRUCTURE

Mr. TAFT. Mr. President, after introducing the Modern Railway Transportation Act on March 3, I was contacted by Mr. Herbert O. Whitten, of Herbert O. Whitten and Associates. Mr. Whitten is a transportation consultant for the Department of Transportation and other organizations and agencies.

In a letter to me dated March 5, 1971, he described our railroad rates and tariffs as "conflicting, obfuscated, confusing, complex, outdated, and even deceiving." The absurdity of the present rate structure is dramatically illustrated in his letter:

I have estimated that there are in excess of 43 trillion railroad rates on file at the ICC. Stated another way, I estimate that there are over 1.44 septillion railroad rate and revenue division possibilities, this is 1,440,000,000,000,000,000,000,000 or 1.44 x 10²⁴ rate and division possibilities. I have personally measured the tariffs on file in the ICC Tariff Room and counted 4300 feet of tariffs—without an index to the rates covered! This is equal to a single stack 7½ to 8 times as tall as the Washington Monument or 3½ times as tall as the Empire State Building with its TV antenna!

Interestingly enough, some 1300 electric utilities, serving the same National economy, manage to produce about twice as much revenues in the same National economy with a rate structure which is entirely contained in a book about 2½ inches thick, published by the Federal Power Commission.

The American railroad rate structure is the work product of bureaucracy at its worst. The Modern Railway Transportation Act would give railroads rate-making freedom subject only to specified anti-discrimination provisions. The pres-

ent regulatory framework is an absurd nightmare which should be evidence to all of us that the time for reform has come.

MINNESOTA STUDENTS FORM PUBLIC INTEREST RESEARCH GROUP

Mr. MONDALE. Mr. President, most of us in public office constantly stress the necessity of achieving social change by working through the system.

Students of the various colleges and universities in Minnesota have demonstrated their commitment to our political and legal system by forming the Minnesota Public Interest Research Group. These students have recognized that grave problems now face our society and that the way to solve those problems is by establishing mechanisms for responsible citizen action.

MPIRG will establish a firm of full-time professional personnel to work on problems of the environment, consumer protection, and corporate responsibility. This organization will give students an effective channel through which to seek responsible change.

The eventual establishment of MPIRG will demonstrate, once again, that our American system can work. I strongly endorse that effort, and I will do whatever I can to help it succeed.

Austin Wehrwein, of the Minneapolis Star, has written an excellent article on the formation of the Minnesota Public Interest Research Group. The article, written by one of our best legal commentators, explains the potential importance of such an organization.

I ask unanimous consent that Mr. Wehrwein's article be printed in the RECORD.

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

A GROUP TO WORK FOR CHANGE (By Austin C. Wehrwein)

Ralph Nader has started a groundswell of student support on Minnesota campuses for a "Minnesota Public Interest Research Group."

If the campaign succeeds students at every university, college and junior college in the state will contribute effort and money to an organization that will work within the political and legal systems for "change."

What change, how much change and by which methods is yet to be decided. In general it can be assumed that consumer and environmental issues would be high on the list. So might civil liberties.

The vehicle would be a statewide non-profit, nonpartisan corporation, whose directors would be chosen by elected boards on the various campuses.

To finance the corporation, the participating institutions would collect a refundable fee of \$3 from each student. Assuming 80,000 students, you arrive at an annual \$240,000 take.

With it the corporation could hire lawyers, engineers, scientists and other experts. It could set up research and educational programs, even make research grants to professors.

The legal and social ramifications are as breath-taking as they are unprecedented for Minnesota. But that isn't all by any means. A similar campaign is afoot on 14 Oregon campuses and if the disciples of Nader prevail there ahead of those here, precedent of

sorts will have been set. Students are also organizing in California, Texas, Georgia, Illinois and Wisconsin. With 8 million students in more than 2,000 colleges and universities in this country, a victory in both Oregon and Minnesota would provide impetus for a remarkable development.

But before anyone proclaims a super student-supported public interest corporation domino (or chain reaction) theory, some hurdles must be cleared. Take the University of Minnesota for example. And you must. Because while state and private institutions will have different rules to be surmounted, the university here was the starting point and by sheer weight of numbers is the necessary foundation.

The first hurdle: The incidental fees committee of six students, five faculty and four administration members. Incidental fees have grown steadily from, for example, \$6 in 1930 to \$41 a quarter now.

They are a form of tax, and are levied for the Daily (\$1.15), health service (\$21), student government (25 cents), Union (\$11.75), intramural sports (\$4.35), aid fund (\$1.70), bands, etc. (20 cents), international programs (10 cents), student ombudsman (4 cents), course evaluation (5 cents), and a proposed FM station (41 cents).

The committee has taken some off over the years, for example a library fee. But the trend has been upward, and although in three years the Daily fee probably will be erased, one question is whether any new fee should be added.

The key question, however, is whether this is a fee that fits the past pattern. The others all support activities of varying direct benefit to students, as students. This is a fee for a student-operated activity. But (say critics) aside from the benefit some participating students would get as functioning citizens, and academic credit if their professors agreed to make the projects part of their courses, the money is spent off campus for activities that affect the institutions as educational bodies only slightly. Students might challenge their own institution, perhaps as a polluter, but is that an educational function?

The answer is that the project would be of far more benefit to more students as an educational experience than some of the fee-supported activities are now. Also, that it would be instituted in response to student demand. At the university, verified petitions already contain more than 19,000 names, and a majority of 21,000 is being sought. (Concordia in St. Paul, Carleton and the university's Morris branch have passed the 65 percent mark.) Some existing fees were imposed with only a shadow of student consent. A majority demand would be hard to ignore.

But isn't this a mandatory tax to support a pressure group? The answer is that a majority should be able to get university help whatever the activity is called. And more important, dissenting students can get their \$3 back. The precedent at the university is a \$3 rebate for students covered by family health plans; an adverse precedent is the committee's refusal to refund the Daily fees to those who don't like the paper.

But if so many want a public service corporation, why not let those who do contribute voluntarily? The frank answer is that it is more expedient to have the university be the collecting agency. This accepts the fact that some students may object but be too lazy to get their \$1 back each quarter.

If the fees committee approves, the next hurdle is the regents. With another tuition increase likely, the mere fact that past policy has been to avoid an incidental fee increase in a year when tuition is hiked may be a persuasive reason to say nay.

Even if internal issues are resolved, the Legislature might raise questions about as

yet uncited contrary state statutes. Like the regents, legislators also might raise political and economic questions. For example, should it let the regents tax students to attack a polluting industry?

Federal tax, and possibly related state tax laws also pose a problem, although the Nader organization in Washington believes it has tacit approval.

The Internal Revenue Code bars tax-exempt status to educational institutions that engage in politics, or which use a "substantial" (more than 5 percent) part of their income for lobbying. The corporation could avoid the first, but the second isn't easy. Lobbying would be essential. Even if the university, unlike private schools, would be beyond the reach of the federal tax collectors, would donors run the risk of losing their right to deduct gifts on their federal tax returns?

The legal job is to insulate the university from any possible attack by contending that the refund features makes the university only an agent, like a company checking off union dues. If the university is no more than that and not a party to the corporation's activities, the lack of university participation in the corporation's activities becomes a positive virtue in this context, as opposed to a detriment at the fee committee level.

The legal and policy hurdles should not, of course, be taken lightly, and the corporation's articles must be cleverly drawn. But the ultimate question is political, and it is good news that Sens. Mondale and Humphrey have given "MPIRG" their support, seeing it as a way to "give students an effective channel through which to seek responsible change."

Sen. Mark Hatfield, R-Ore., in his endorsement, said he encouraged students to work within the system and not to resort to senseless acts which are counter-productive. That is really the point. When so many students come up with a challenge like this, they deserve a chance to show what they can do to put their education to work for a better world.

SUMMARY OF NATIONAL PENITENTIARIES SUBCOMMITTEE HEARINGS

Mr. BURDICK. Mr. President, the Subcommittee on National Penitentiaries of the Judiciary Committee completed hearings on March 3 on the work of the U.S. Bureau of Prisons. The scope of these hearings included not only the administration of the Bureau, but also its employees, former inmates, and research being done concerning its methods.

The opening witness was Norman A. Carlson, Director of the Bureau of Prisons. The inmate population is increasing, due to additional commitments from the Federal courts as well as increases in the average length of sentence. The average age of inmates is declining, and they tend to be more assaultive and aggressive.

The Bureau estimates that it spends at present 85 percent of its funds on custody and care of prisoners, and 15 percent on rehabilitation efforts. The Bureau is requesting additional funds for the next fiscal year that would increase the percentage spent on treatment, and allow for employment of additional case-workers, teachers and other professional personnel. Correctional officers, guards will be given training as para-professionals in the treatment of offenders.

The Bureau has approximately 6,000 employees, of whom 3,000 are correctional officers, and 400 professionals.

The Bureau's construction plans for the future include a psychiatric center which will separate some of the conflicting functions now carried on by the medical center at Springfield, Mo. Psychiatric diagnosis and treatment of some offenders will be moved to the new center, and Springfield will continue with its medical and surgical functions.

The Bureau expects to open new Community Treatment Centers, and contract with State, local, and private agencies operating halfway houses for inmates about to be released. If funds requested for the new fiscal year are approved, the Bureau will be able to accommodate 16 percent of its releases in pre-release guidance centers.

Fewer than 5 percent of inmates committed to Federal institutions function at the 12th grade educational level, and 9 percent of inmates complete their high school equivalency during a year. Eighty-five percent of inmates lack marketable job skills, and about 20 percent are participating in full-time vocational training. The average length of time served is slightly more than 1½ years, so on the average a higher percentage of inmates would have participated in these programs prior to their release.

The Bureau at present contracts for the care of approximately 2,800—most awaiting trial in Federal court—in State and local jails and correctional institutions. The Bureau has 8 inspectors to check that facilities meet minimum standards of health, sanitation, et cetera, although there are virtually none with any type of program. The Bureau is involved in establishing jail training programs for employees, and is planning correctional centers with detention facilities in eight metropolitan areas which it hopes will be a model for improved local facilities, that could be provided with aid from Law Enforcement Assistance Funds.

John Griner, president of the American Federation of Government Employees which represents Bureau employees, cited the changing prison population as requiring increased numbers of correctional officers and additional steps for their protection. The correctional officer is growing in professional importance to the correctional system, and his role must be recognized.

Prof. Larry Kraft of the University of North Dakota Law School said that court decisions left many questions as to what due process rights prisoners may or may not have in disciplinary situations, but that it appears the Bureau meets most standards set out so far. He said the Bureau should insure this position by establishing written rules of conduct instead of verbal guidelines, and that consideration should be given to external review of disciplinary decisions. He suggested two areas of correctional reform, providing compensation for victims of crime, and diversion of nondangerous offenders prior to sentencing.

Charles Lankford, Fairfax, Va., emphasized the importance of treatment

programs and consultation in prisoner rehabilitation. Having served time in Federal, State, and local correctional institutions, he said that in his experience the operations of the Federal institutions were a model for others to follow.

THE UNIVERSITY AND SOCIETY

Mr. KENNEDY. Mr. President, one of the most important topics for contemporary discussion is the "Function of the University in Our Society." Prince Bernhard of the Netherlands, in a recent address at the University of London, King's College, offered a concise and provoking statement of his views on that topic.

Mr. President, in recommending this speech to the attention of the Senate, I also am pleased to acknowledge the continuing friendship and historical ties between the Netherlands and the United States and the extraordinary contribution of Prince Bernhard and the Royal Family of the Netherlands to the strengthening of the bond between our two countries.

I ask unanimous consent that the speech delivered by Prince Bernhard be printed in the RECORD.

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

THE COMMEMORATION ORATION BY HIS ROYAL HIGHNESS THE PRINCE OF THE NETHERLANDS AT THE UNIVERSITY OF LONDON KING'S COLLEGE, ON NOVEMBER 18TH, 1970

After a certain amount of thought on the subject, I have finally come to the conclusion that a suitable topic for the present talk before such an august assembly of professors and students might be "The Function of the University in Our Society". When considering this theme, it seems to me that a relevant question could be raised—a question which has strangely enough not received too much attention in most countries—and that is: to whom should the average university be responsible for the composition of its curriculum, its faculty and its student body? One approach might be to translate the answers into economic terms along the following lines: first, the University could be solely responsible to its consumers or in other words to its students. This might, however, entail the disadvantage that there would be a tendency, often manifested by the present younger generation, to require "relevance" as an important part of the Universities' curriculum. In this context the expression "relevance" might be defined as clear-cut recipes and formula's providing for success during examination sessions and also, preferably, during later life. It seems to me that such an empirical approach would hardly leave much room for the teaching of the important discipline of rational and systematic thinking, which serves as the basis of excellence in the fields of law, mathematics, physics etc.

I also wonder, taking into account that what I have just said, whether sole responsibility of the University to its consumers for the composition of its curriculum, its faculty and its student-body might not also imply that students would have to finance the greater part of the Universities' revenues. I can hardly imagine any outside source that is willing to finance an institution without having at least something to say about the manner in which the funds are allocated! Should students consequently have to bear the greater part of the financial burden—as they did during the nineteenth century—then it seems obvious that the relatively large

number of scholarships and fellowships which is required in this day and age, can no longer be sustained.

Should Universities then be solely responsible for the criteria of what should be taught, who should teach and whom should be taught, to those authorities and those institutions who presently are responsible for the financing? In many cases, it seems to me, this would boil down to an exclusive responsibility to the state—that is specifically to the ministries of education and/or to the parliaments. Undoubtedly sole responsibility to the state would also imply control by the state. And I venture to say, with all respect to state institutions, that such control might inhibit some of the most essential functions of the Universities, notably to serve as an impartial adviser and a neutral arbitrator to various segments and institutions in our society, and furthermore it might jeopardize the liberty to launch into logical and reasoned criticism of government.

Alternatively, Universities could be made responsible to the "users of its product" or in other words the future employers. In such a case a disproportionate amount of grants, on which a great number of students is dependent, might be awarded by these employers or to use concrete terms, by industry, the professional or the state for the study of specific subjects such as science and technology, as opposed to, for example, the liberal arts, theology or languages. Consequently some faculties might flourish and others might wither so that the Universities would acquire a rather lob-sided nature. It seems to me that such a development would be contrary to the required universality of higher education.

One might also stipulate that a University should be responsible to itself as to a guild of masters and scholars. This solution might however lead to a certain intellectual stagnation. For the question could be raised whether the academic environment as such is very adept at making political and social decisions. Perhaps a certain amount of outside intervention, for example by government commissions might have a healthy effect upon a society that might otherwise become too introspective.

Finally, I should like to add that if a University besides being responsible to masters and scholars, should also be responsible to a board of overseers, a board of governors, or a committee of curators—and this seems to be a plausible proposition—then it is of very great importance that the persons who are chosen to serve in such a capacity possess powerful and original minds and originate from diverse backgrounds.

In my opinion a good understanding between professors and students is of great importance and this can only be achieved by a continual consultation between these groups.

After having made these more or less introductory remarks, I should like to concentrate to some extent on three intriguing questions: They are: Who should be taught at Universities?; What should be taught at Universities?; and Who is to teach at Universities?

Let me consider the first question: Who should be taught? Until rather recently, higher education was even in the developed countries, largely confined to a relatively small group, which has more often than not consisted of elements representing the privileged classes. Since the last war, however, a mounting pressure has emerged and materialized in favour of the admission of an increasing number of students from all walks of life. The present academic generation consequently consists of many representatives from the less-privileged classes; their participation in higher education has been made possible through fellowships, scholarships, grants etc. Despite this new influx into the Universities many progressive thinkers in

western countries are far from satisfied. They believe that Universities should be open to practically everyone at some period or another in their lifetime. Even those performing rather noncerebral jobs in every day life have, according to these "progressives", a right to more knowledge, more intelligence, and, consequently to more happiness. In a sense this school of thought advocates mass higher education, not restricted to a certain age. Perhaps an analogy could be drawn with a museum or a public library where attendance is not confined to a privileged few, but where everyone is welcome. Those who favour this mass higher educational approach have suggested that in affluent countries all people (of whatever age) might for a few years attend University. The state would then finance their tuition as well as their room and board. In less affluent countries such financing would, of course, hardly be possible; perhaps here a solution might be found in correspondence courses, evening classes or occasional days off.

Although mass education seems at a first glance to be a very desirable goal, we must, it seems to me, also look at the inherent disadvantages of such a system. One disadvantage is, of course, that people who have undergone higher education must find it very difficult to return to or to assume non-cerebral jobs.

Another disadvantage is that mass education entails the risk of a levelling down of general academic standards. An interesting corollary is that, according to statistics, the number of gifted individuals does not increase in proportion to University attendance. Furthermore, by establishing mass education, the confusion between the gifted and the less-gifted might give rise to frustration and to an unwanted degree of collectivism—unwanted, because collectivism is an improper basis for the selection and encouragement of individuals capable of assuming responsibilities and making decisions in later life.

A solution might be found in the concept of a coexistence within the University between a more basic academic course adjusted to the masses and a more thorough and specialized teaching reserved for the very gifted students. In other words, a University would have to maintain facilities to service the masses and the elite at the same time. Special care would, however, have to be taken that the more brilliant students actually do come out on top. To express it in a more colloquial fashion: "the road to the Nobel Prize must be safeguarded". Should the very able students not be selected for further more specialized and more cerebral training and should the Universities confine themselves to a general higher education for everyone, then, I think, there would be a real danger that future employers would create their own training systems and would consequently select their executives and specialists from these specialized schools and institutes. Hence, the role of the Universities would be reduced to teaching little more than a protracted secondary education.

When thinking along these lines, it will also be necessary to come to grips with the problem of how students will be selected for further intensive education as opposed to standard higher education for the masses. Obviously Universities will have to arrange a filter system "through which opportunities for the intellect can be stretched to the point of capacity and the critical faculty sharpened to the point where it can exchange ideas by close contact with men who are really intellectual masters". It will be very difficult to solve the problem of what kind of filters must be applied. For instance, I believe that the filter of massive failure rates—a system that is more often than not of a competitive nature—does not seem to be very commendable, nor is it a very moral approach. Many true things have often been said about the

negative effect that a perpetual feeling of competition and the accompanying stress have upon a student-body. Under such conditions, young people usually no longer study for scholarship's sake as such. Quite to the contrary, they tend to concentrate upon accumulating the necessary marks so that they will not be eliminated in the competitive struggle. Perhaps the filter of very stringent selection prior to being admitted with low subsequent failure rates might be a more commendable solution. Or possibly some system of diverse stratification within the University or between Universities, designed according to the ability and ambition of the candidate, could be an even better way-out. In this respect the Anglo-Saxon system of an undergraduate education supplemented by post graduate studies of diverse natures and disciplines could be regarded as a step in the right direction.

I have already indicated that higher education should not be confined to the present standard age level (18—±25 years). In fact, I believe that some of the candidates for further intensive education should be men and women, who after some years of being "on the job" in the various professions, in industries and in the state could be regarded as potential leaders or, to use a sometimes rather ambiguous and dangerous term, as an elite. These "chosen few" might participate in refresher courses, organised by the Universities along very exacting lines. In order to achieve such advanced adult education it will be necessary for employers to be more willing than they are now to release future leaders for a period of about two or three years while it will also be necessary for Universities to make the necessary adjustments in this curricula. Undoubtedly both employers and Universities would ultimately benefit through the contacts established by this category of very gifted people.

Without a doubt, advanced education in general will be a very expensive affair. Excellence can only be attained when there is a high ratio between numbers of eminently qualified teachers and of students. The teachers must naturally be well paid. Inevitably the high costs of the salaries and sabbaticals for the teaching staff will be criticized, the answer, it seems to me, must be that a similar financial burden should be borne for the education of a person who is destined to administer or play an important role in human affairs as for the education of for example a test-pilot, an astronaut or a juvenile delinquent (whose education is even more costly than Eten's tuition fee).

I should now like to address myself to the second question: "What should be taught?" A leading French educator has expressed the opinion that teaching should generally be assigned the following three-fold mission: transmission of knowledge, the formation of character and intelligence, and the integration of the student into society. It seems to me that the accomplishment of the third mission is narrowly related and would almost flow automatically from a proper handling of the first two.

On the first point—the transmission of knowledge—I should like to suggest that here the problem is not what to teach about physics to professional physicists, about medicine to medical students, about economics to students who are going to become economists. Specialist subjects where knowledge is advancing rapidly, are on the whole well taught. Symptomatic of this condition is the fact that graduate students frequently equal their teachers.

The problem is in fact two fold: firstly, what else should the University teach to physicists, doctors and economists, and secondly what should the University offer to those who are destined to administer or

govern human affairs, bearing in mind that the latter category more often than not consists of generalists. It seems to me that both groups would immensely profit by not only, more or less passively, listening to mandatory lectures which are necessary for attaining a University degree, but also by exchanging ideas, preferably in seminars, with men who are already, in a responsible position administering human affairs. Anyone who fulfills some role of leadership in the state or in the community at this time, must have reflected on, for example, urban development, birth control, the problem of youth, East-West cooperation etc. etc. Such a seminar-approach is in fact little different from the "case-methods" which are already practiced in law schools and business schools.

The advantage of the seminar system is undoubtedly that students must actively engage in an exchange of opinions and are thereby more or less forced to think and to rationalize. Until recently, at least in my country, students, belonging to certain faculties, had to do little more than sit back and listen to a lecture in order to absorb as many facts as possible which they could more or less mechanically recite during a subsequent examination session. In this present day and era the simple memorization of a large quantity of facts has with the introduction of much more efficient computers become rather superfluous. It seems to me that current education should therefore not be so much directed at the mechanical transmission of facts that must be memorized, but rather at teaching students how to think and how to rationalize so that their decision-making will be as balanced and as effective as possible once they have a function in society.

Besides the seminar system, one could imagine a procedure (already being used by a certain University in my country) through which, at an early stage of the educational process, tasks would be assigned to working teams rather than to individuals. These teams might be formed more or less spontaneously by the students themselves. Teachers would encourage and instigate these working groups rather than impose their views upon them. The draw-back of such a procedure could be that the less-gifted students would, by relying on the abilities of the more capable members of the team, acquire a passing mark or even a degree in a relatively easy fashion. The positive aspect would be that the best individuals would after a certain amount of time naturally emerge from the best teams. Consequently one might say that a built-in filter will exist within the working team system which might effectively separate those who are destined for more intensive and exacting higher education from those who should only participate in higher learning for the masses.

Besides the seminar system and the working team system I should like to suggest that University teaching might be influenced in a positive fashion if University staffs were able to keep in touch with alumni during the latter's first five years as employees of the state, industry, the professions etc. This would have the following advantages: First, the Universities would be able to adjust their curricula to given professions or jobs so that the gap between academic learning and the often more practical requirements of a certain function in society would not be as great as is often presently the case. Second, the Universities would keep abreast of the latest developments and third there would be a constant intercourse between the University and the outside world so that outsiders could no longer accuse the academic community of living in an ivory tower.

I should like to add to my previous remarks on "What should be taught", by mentioning a few actions that might be taken within Universities toward the formation of

the students' character and intelligence: I think that students should participate in social activities but that these activities should not be considered as part of the University curriculum. They should perhaps be wholly relegated to the initiative and inventiveness of the students themselves. When I speak of such social actions I do not mean dance-weekends or beer-brawls but rather more charitable activities such as teaching less-gifted children, helping out in the community where the University is situated, etc. In this context I may also add that I consider it beneficial for the modern student to show some interest in politics.

Second, I would judge it to be very important that students should be taught more about self-expression, which after all is one of the very important aspects of many jobs and professions. I think that it would be commendable if as many students as possible engaged in such extra-curricular activities as debating and dramatics.

Sometimes, I wonder to what extent it might be possible to "teach" characters and morals within a University. I am fully aware of the fact that there are no professors in such an intangible subject as character-building. Nor are there prefabricated and instant-formula courses in morality. But, nevertheless, when we, who are university graduates, examine our debt to our "alma mater", we recognize that the debt is not primarily to an institution but rather to certain professors or certain tutors. And the qualities which made these teachers seem to be great educators to us were not only the qualities of a learned scholar but also the qualities of a humane, moral and constructive man with a genuine interest in his pupil. For in teaching at its highest level, as in friendship, there must be a good deal of personal relationship and personal interest. It seems to me that such a relationship should not be completely devoid of a constructive example, set by the teacher vis-a-vis his student, in morals as well as in character. Particularly during this epoch when standards are becoming looser and morals more flexible, a positive example manifested by the older generation might serve as a clear beacon for those members of the younger generation who are losing themselves in the turbulent waves of uncertain ethics.

As a consequence of this last consideration, I have now arrived at the point where I should like to examine the last of the three questions which I mentioned at the beginning of this talk—that is the question of: "Who is to teach at Universities?"

In the old Anglo-Saxon tradition, teachers of Universities were appointed on the basis of their "erudition and piety". At present I believe that practically everywhere in secular higher education the criterion of piety is somehow out of date. Apparently the continental tradition, always very much manifested in my country as well as in Germany, that a professor should be appointed mainly because of his learnedness and scholarship has gained more adherence. Consequently, many professors feel that they should confine their activities to lecturing, research, publishing and serving in some advisory capacity to outside interests and institutions. They therefore have little time and interest left to be—in the original sense of the word—a "guru" to their students. Certainly they do not consider themselves to be "in loco parentis". In a way this is a pity. Granting that professors cannot be expected to act as guardians, I also believe the following to be true: Particularly during the last ten years the younger generation seems to be loosening its bonds with its parents more than ever before. The "home" no longer is the centripetal force that it once used to be. When teen-age students arrive at Universities they consequently very often

do not possess that which for the ordinary man is almost a necessity imposed by nature, i.e. ties with a family. The University must, in order to prevent these young men and women from falling into a vacuum, supply an alternative if not a substitute. Formerly this alternative was to some extent achieved by the Anglo-Saxon fraternities, clubs or colleges as well as by the continental student-corporations. But these institutions, at present often condemned as being the ugly buds from which the establishment sprouts, are rapidly losing their appeal. Perhaps something else should take their place. In this connection, I should like to mention the thoughts of a prominent British educator on the subject, who believes that a substitute-family might be formed by the concept of "the University-as-Community" of senior and junior scholars. He also thinks that this concept may be more important for the stability of the Universities of 1970-2000 than we are at present disposed to grant. It seems to me that in order to attain "the University-as-Community" it will be of the utmost importance to select professors not only because of their scholastic capacities and their erudition but also because of their abilities as a teacher and as a companion of youth. For the latter qualities a professor would, besides the other moral qualities which I mentioned a moment ago, need a fair measure of the virtues of humility, courage, flexibility, tolerance and respect for the humanity of others. He would also have to be convinced of the necessity of establishing some sort of informal contacts with his students outside the lecture halls. In the very large Universities where every professor faces thousands of students such informal contacts will of course be very difficult to achieve; perhaps in these cases this function can be delegated (at least to some extent) to assistant professors, instructors, or other senior members of the academic community.

In the context of the question: "Who shall teach" I should also like to examine a problem to which I already briefly referred a moment ago—that is the problem of the extent to which a professor should engage in activities outside the University-Community: Firstly, let me say that I consider it essential that teachers who must educate young men and women to manage human affairs should also have some active experience in human affairs themselves. This in its ideal form implies that professors must leave Universities at regular intervals so that, through regular, sabbaticals or through being "on loan" for a few years to the government, professions or commercial interests, they can remain in touch with the outside world. Another feasible procedure would be to make a number of professorial appointments from the ranks of those who have throughout many years served society successfully in some other capacity and who therefore already possess an abundance of practical experience. On the other hand, I should also like to state that it sometimes seems to me as though we have in some cases reached a state of affairs where certain professors tend to use the University as a launching pad for their extramural activities. Inevitably these men are always absent. Another common phenomenon is that a number of Universities and colleges frequently include a few very well-known men on their faculty-lists; in actual fact these much sought-after personages are usually away from the campus and are rarely accessible to students. It seems to me that both those categories, I have just mentioned, should be requested to teach at Universities on an *ad hoc* basis, or to be more specific, they should be invited to talk on the few dates during an academic year when they can definitely expect to be available, about concrete topics, determined in previous consultation with the University e.g. faculty. They should, however, not be considered as

regular professors on whom students are dependent for classes, the marking of papers or for examinations. I say this because I have known of several instances where students have lost quite a bit of time because they were not able to attend lectures or take examinations owing to the perennial absence of their teachers in the course of the academic year. This is a situation which, I am convinced, is extremely undesirable and must, wherever possible, be altered.

I should also like to emphasize again that a University must always guard itself against being considered a self-sufficient or introspective unit which is slanted in a certain ideological or political direction. Such an "image" would definitely be contrary to the original conception of the "Universitas". It is therefore important that both the permanent faculty as well as those outsiders who are either invited regularly or just in one instance to address the University-Community, will be selected from as broad a basis as possible. I attach great value to the fact that also this latter category—that is to say the statesman, the senior civil servants, the townplanners, the industrialists and the distinguished representatives of the professions—be given the opportunity and should be willing to visit Universities in order to expose their often very contradictory and original ideas, prejudices, and, perhaps most important of all, their principles to the sharp interrogation and scrutiny of the emerging generation. Such a course of action will prevent students from being influenced towards standardized thinking along a certain pattern and in a certain direction. It will also prevent the University from ever taking a corporate stand on specific issues and thereby safeguard the intellectual freedom of its individual members.

Finally a general remark, about you, the present generation here, and the two generations that came before—your parents and your grandparents. Somebody drew my attention to this and I believe it is worthwhile to tell it here. Not long ago someone got together some facts about these last two generations. I would like to share some of these facts with you. These are the people who within just five decades—1919-1969—have by their work increased your life expectancy by approximately 50 percent—who while cutting the working day by a third, have more than doubled the per capita output.

These are the people who have given a healthier world than they found. And because of this you no longer have to fear the epidemics of flu, typhus, diphtheria, smallpox, scarlet fever, measles or mumps that they knew in their youth. And the dreaded polio is no longer a medical factor, while TB is almost unheard of.

Let me remind you that these remarkable people lived through history's greatest depression. Many of these people know what it is to be poor, what it is to be hungry and cold. And because of this, they determined that it would not happen to you, that you would have a better life, you would have food to eat, milk to drink, vitamins to nourish you, a warm home, better schools and greater opportunities to succeed than they had.

Because they gave you the best, you are the tallest, healthiest, brightest and probably best looking generation to inhabit the land. And because they were materialistic, you will work fewer hours, learn more, have more leisure time, travel to more distant places, and have more of a chance to follow your life's ambition.

These are also the people who fought man's gristliest war. They are the people who defeated the tyranny of Hitler, and who when it was all over, in the case of America, had the compassion to spend billions of dollars to help their former enemies rebuild their homelands. And these are the people who had the sense to begin the United Nations.

They built thousands of high schools, trained and hired tens of thousands of better teachers, and at the same time made higher education a very real possibility for millions of youngsters—where once it was only the dream of a wealthy few.

And they made a start—although a late one—in healing the scars of the earth and in fighting pollution and the destruction of our natural environment. They set into motion new laws giving conservation new meaning and setting aside land for you and your children to enjoy. They also held the dubious record for paying taxes—although you will probably exceed them in this!

While they have done all these things, they have had some failures. They have not yet found a solution for war, nor for racial hatred.

Perhaps you, the present generation, will perfect the social mechanisms by which all men may follow their ambitions without the threat of force so that the earth will no longer need police to enforce the laws, nor armies to prevent some men from trespassing against others.

But they—those generations—made more progress by the sweat of their brows than in any previous era, and don't you forget it!

And, if your generation can make as much progress in as many areas as these two generations have, you should be able to solve a good many of the world's remaining ills.

It is my hope, and I know the hope of those two generations as I am part of them, that you find the answers to many of the problems that still plague mankind.

But it will not be easy. And you will not do it by negative thoughts, nor by tearing down or belittling. You may and can do it by hard work, humility, hope and faith in mankind. Try it! Do it!

Goodbye and good luck to all of you.

REV. LEON H. SULLIVAN, FOUNDER OF OIC, APPEARS ON MEET THE PRESS

Mr. SCHWEIKER. Mr. President, yesterday on the NBC television program "Meet the Press" the guest personality was the Reverend Leon H. Sullivan, of Philadelphia, pastor of Zion Baptist Church and the founder of the Opportunities Industrialization Centers, better known as OIC.

The Reverend Mr. Sullivan has been the driving force behind the OIC's, which began in Philadelphia and now operate across the Nation in 58 cities. Through the success of OIC's, the Reverend Mr. Sullivan has shown the enormous potential of underprivileged minority groups of our Nation to help themselves rise out of poverty through basic education, job training, and improved self-esteem. I might add that Reverend Sullivan has also given his leadership to various minority enterprises, including housing projects, shopping center developments, factories, and retail businesses.

In his appearance on "Meet the Press," the Reverend Mr. Sullivan spoke eloquently of the need for more programs like OIC for all poor minority groups—blacks, Puerto Ricans, Mexican Americans, and American Indians. But he also expressed his underlying faith in the greatness of our Nation and his confidence that America can do the job that needs to be done in raising such minority groups out of poverty.

I hope that all Senators will read and reflect on the Reverend Mr. Sullivan's

remarks made on the "Meet the Press" show on March 7. I ask unanimous consent that a transcript of this show be printed in the RECORD.

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

MEET THE PRESS

Guest: Rev. Leon H. Sullivan, founder, Opportunities Industrialization Centers.

Moderator: Edwin Newman, NBC News.

Panel: Nick Kotz, Washington Post; Carl T. Rowan, Chicago Daily News; Ron Nessen, NBC News; and Lawrence E. Spivak, regular panel member.

Mr. NEWMAN. Our guest today on Meet the Press is a pioneer in helping black men and women get better jobs, Leon H. Sullivan, pastor of the Zion Baptist Church of Philadelphia. He is founder and Chairman of Opportunities Industrialization Centers of America, a nationwide job training program.

Dr. Sullivan is the first black director ever elected to the Board of General Motors, the world's largest corporation.

Mr. SPIVAK. Reverend Sullivan, President Nixon the other day asked Congress for \$2 billion in revenue sharing funds for a manpower training program to be under state and local government. Based on your experience with manpower training programs, do you think that a good or a bad idea?

Dr. SULLIVAN. It will be a good idea if people in the communities where the problems are have the discretion and the ability to utilize those funds for the development of their own programs. As long as manpower programs are developed from the top down, rather than from the bottom up, they will not be successful. They will get caught in the old concept of big jobs, big salaries and big heads, where the money stays up rather than going down to help the people.

So I would say, if the money doesn't get caught in the old patronage bags where people get the money, rather than money to help the people, it might work, and if the government decides not to try to run the programs. Because if the government tries to run them with their bureaucracy, they will ruin them.

* * * programs to succeed in manpower you have to come up from the people and the people themselves must want them to help themselves.

Mr. SPIVAK. Well, now what do you think is going to happen in your state and in your city of Philadelphia if the Mayor and the Governor are given a big chunk of federal money to do with as they please without any strings? What, for example will happen to your own manpower training program?

Dr. SULLIVAN. I know what will happen to OIC in this country, in every city where OIC is developing. OIC is going to be in those Mayor's programs and those Governors offices to see that OIC gets its fair share. We can't depend just on government functionaries to see that we get the help. We have to be there as community people concerned about programs to help ourselves, to see that we get out part. We won't be able to depend on others to do it for us because we will be caught in the same old nets, the same old bags that never reach down to help the people.

Mr. SPIVAK. Reverend Sullivan, I think you indicated at one time that it cost you about \$1,000 a year to train a man or a woman for a job, while the government training programs have averaged about \$3,600 per person. Why do you think you are able to train men so much more cheaply than the government can?

Dr. SULLIVAN. Because of the motivation and because OIC belongs to the people. We are not in the business of manpower training just to be doing something, but we are

in the business of OIC to help the people. And because we want to spend as little as we can on every person so we will have more money to help more people. In other words, we realize that we need training in order to move ahead, and OIC says to a man: "Get your training as fast as you can, get motivated in and out so that your brother can come and take the seat or the bench that you are leaving."

So, we don't create situations where there are more people to do a job than are needed. If there is one person needed to do a job we will do it with that one person. If we can we will do it with a half a person. We will use as many volunteers as we can, but most of all, the students help themselves, and so the costs are down and we do it for less than one-fourth of what manpower costs are for training an individual in OIC.

Mr. SPIVAK. Reverend Sullivan, the Nixon Administration also recently proposed that some 225,000 public service jobs be made available for people on welfare. How do you feel about that proposal?

Dr. SULLIVAN. Oh, I think there is no question about the need for public service jobs for people on welfare. Not only people on welfare, but for young veterans who are coming out of this war. You must remember, 100,000 veterans who are black are coming back from Vietnam—we hope soon. Right now, these hundred thousand black veterans who are coming back are the best trained killers in the world. And if they come back to a nation that has no job opportunities for them because they start with two and a half strikes against them—first they are black, second they have to start on a job at the bottom rung, and in the course of a sort of economic depression, two strikes against them and a broken back, you are going to have to have jobs available to get these men in the mainstream of being able to make a living. Otherwise, you are going to have all kinds of problems in our communities, because these young men coming back aren't going to take the stuff that was taken before they went.

(Announcements.)

Mr. ROWAN. Reverend Sullivan, Mr. Nixon visited you in Philadelphia in 1968, praised the OIC, promised you strong support. Are you satisfied with the way the administration has met that promise?

Dr. SULLIVAN. No, I am not. OIC needs \$100 million right now to do the job that it needs to do. We have tens of thousands of people waiting in line to get into OIC programs. Up to just a few months ago we were operating on \$13 million of budget. The most successful manpower program in America dealing with black needs and Puerto Rican needs and Indian needs and Mexican-American needs, and yet we were operating on less than 50 cents of every \$100.00 spent in manpower.

Mr. ROWAN. How much money are you getting now from the federal government?

Dr. SULLIVAN. Up until a few weeks ago we were getting \$13 million a year. Now—incidentally, it happened, Mr. Rowan, that we are getting \$10 million more as of last month. The Department of Labor, HEW, and OEO made funds available of \$10,700,000 to augment what we are already getting, so now we have \$24 million to train with. We need \$75 million more. So Mr. Nixon's administration has taken an important step, and we appreciate that step, but if Mr. Nixon is listening, I have \$75 million more to go, because I have to train 100,000 people a year in jobs.

Mr. ROWAN. One of Mr. Nixon's constituents wrote me a letter the other day about your program and your demands for more money, and that writer said "You Negroes are always griping, you want everything. You are so much better off than you were, but you are never satisfied."

Is that a valid description of you and OIC?

Dr. SULLIVAN. OIC is the greatest thing to help America that has come along the pike in a hundred years. OIC is a program that was born out of self-help. How did it start? It started because I saw that industry and business weren't employing blacks or Puerto Ricans as they should, so I boycotted them. I created a selective patronage program and I said, "If you don't employ my people we won't buy from you." Then when the jobs became open, as they began to come open by the thousands in Philadelphia, I couldn't find people to fill the jobs, and I said, integration without preparation is frustration.

So now the great effort of my community must be toward preparation, preparation is the key to opportunity. So I started the self-help program, OIC. Some people say, "Why don't you black people help yourselves?" Well, OIC is helping ourselves. We are helping ourselves, and someone like that says, "These black people are never satisfied."

Never satisfied? We don't have anything now. We are the most repressed, the most congested, the most looked down upon, humiliated people in America. Don't have enough? We don't have nothing now.

So OIC is coming and you are saying we want something, but we are saying to America now "You don't have to give it to us. We will help ourselves. All we want is for you to help us, the Congress to give us some funds to help us to build programs to develop and train ourselves." Oh, Mr. Rowan, either OIC will succeed in America or this country is going to be in deep trouble. It is the one positive program that has come along, that is saying to America, "We want to build America." I am not in OIC to tear America down. I am a patriot. I am a crazy black patriot who believes in America, but who believes too in black people, and Puerto Ricans and Indians and Mexican-Americans. I want the same chance and opportunity for them as white people have been getting all these years. And OIC says "We will train you, get you a job, stand on your feet and make your own way," and we want to do it by a million people in the next decade. So I want you to help me.

Mr. KOTZ. I would like to ask you several questions about General Motors, of which you are a new board member. Several criticisms: One criticism raised last year at GM's board meeting was only about 10 of 13,000 GM dealerships are held by blackmen, today. Do you consider this tells you something about General Motors? Does this call for an OIC-type boycott? What do you plan to do about it?

Dr. SULLIVAN. No, there is no question it tells me something. The last two board meetings—I have only attended two, and the board knows it tells me something. I have already told the board that I am there to see what I can do to help people, black people and underprivileged. Lyndon Johnson called me, President Johnson called me a day after the appointment was announced and he said, "Leon, this is Lyndon." He said, "What's good for General Motors now really is good for America."

Well, I am going to see as best I can that what's good for General Motors is good for America. That means more black dealerships. I don't mean ten more or 20 only, I mean hundreds ultimately. I don't mean people fixing cars and learning to be repairmen. I mean a thousand of them. I don't mean a few new salesmen, I mean hundreds of them. I don't mean just car salesmen and dealers. I mean in the 150 plants where General Motors operates I want to see blacks in middle management jobs. I want to see blacks in executive positions, I want to see blacks coming up that ladder. I am at General Motors not because I am so proud to be a member of General Motors. When I was asked by Mr. Roach to be a member of General Motors Corporation I told him I would have to think about it, and I went and talked to my

wife about it and my family. We vote on everything. We had a vote. The vote was four to one. I have three little children and a wife and myself. I voted against it. I said, "What am I saying? Am I saying to my people I am joining the establishment?"

Then I made a calculated risk and I said "I must do this because if any place industry can be developed and used to help my people, it is General Motors."

So I said, "I am going to do the best I can, and I am going to do the best I can."

As my wife said, "Keep your hat near your hand and stay near the door," because I am not going to get caught in anything. I am there to help General Motors sell more Chevrolets than have ever been sold. Chevrolet is the best car on the road I know. I have been driving one all my life. It is all I could afford. But if you sell Chevrolets and Cadillacs [we] you help black people and underprivileged people to rise.

Mr. KOTZ. There are three concrete proposals that are going to be brought to the next General Motors meeting by Project GM. They are asking that challengers be placed on the ballot to run against the members of the Board. They are asking that GM make provision for membership on the Board for consumer interests, for dealer interests, for worker interests, and they are asking that GM report in detail to the public what it is doing about auto pollution and development of more safe cars.

Where will you stand on these proposals? Dr. SULLIVAN. I have been considering all those proposals and of course I will make my own decisions as to where I will stand. I do believe that far greater and broader reports have to be given to the people in terms of what we are doing for minorities in this country. The other areas—I am considering them now as to what my position will be, because I will make my own determination as to what I shall do. There is one incidentally you didn't mention. What to do about the Union of South Africa. Let me speak to it. I believe that apartheid has to come to an end. I believe that America, itself, with its industries and business can no longer underwrite apartheid. Whether it be General Motors, Chrysler, Ford, or 300 other companies that are there. The tide is moving in the direction of freedom and opportunity in the world, not in the direction of apartheid, and I am saying that the United States government ought to declare an economic embargo against the Union of South Africa. I am saying if it happened for the Italians, the Italians would say something about it, or the Irish, the Irish would say something about it, for the Jews, the Jews would say something about it.

This is happening to black people in Africa. Mr. NESSEN. What about GM, should they take their business out of South Africa?

Dr. SULLIVAN. They know. I have said so already, and I am saying that every business that is doing business in the Union of South Africa ought to do something about it, to get apartheid straightened out, because I am a black man, and I want to see black men free and the only place in the world where something like this is, is in the Union of South Africa and I want to see the flag of America fly for freedom around this world again so I say not only companies but the government itself, the Congress of the United States ought to take a stand and say apartheid has to end. To save a soul, you take away the sin. To get rid of apartheid, you take away its money, its industrial support. I would say to the Union of South Africa: These are things that we want to see done, one two three, four five. Do them within a span.

If they don't, office by office, factory by factory, plant by plant, they come out, because if we don't take them out like that, one day the Communists are going to take them out for us.

Mr. NESSEN. Dr. Sullivan, in answer to several questions you have spoken of the country facing deep trouble if job training doesn't work. You have spoken of black G.I.s coming home as the best trained killers in the world.

What are you suggesting, that there is going to be a black armed revolution if your plan is not expanded?

Dr. SULLIVAN. I am working on the system to see that that doesn't happen. There are those that are working against the system to see that it happens. It depends upon whether Americans will help me as I work on the system to get the system straightened out. In America great invisible walls separate the black community from moving out into the great suburban areas of America. Segregation is still a theme for black people in this country. It is backed up by banks, it is backed up by real estate brokers, it is backed up by investment houses to keep their invisible wall. As long as you compress people, you will have combustion. Where you have combustion you will have explosion. Don't think because you can't see the flames, there are no fires. There are fires, and what our people are saying through OIC, OIC is a hope of the people. It is not the only hope. Abernathy has a great hope. Roy Wilkins is one of the greatest men in the world. He is trying to give us hope. OIC is one hope, though, and I am saying help OIC.

I want to train one million men and women in the next decade in what I call a Decade of Progress. Help me America, I am saying, to work on the system to get it straight, to get those invisible walls down so that blacks can move out like anyone else and stop supporting segregation and discrimination with government funds and tax supports.

Mr. NESSEN. Now in answer to another question you say that government job training programs have produced big jobs, big salaries and big patronage.

Are you suggesting that there is something illegal, that there has been a misuse of funds? Would you name some names and give some instances of patronage and big salaries going to the administrators?

Dr. SULLIVAN. No, that is only a generality use because I work—

Mr. NESSEN. Would you give the specifics to back it up?

Dr. SULLIVAN. Because I work in the field, in this way: OIC uses one man to do one man's work. If you go into an OIC center you will see a man or a woman about their work to help that student to help themselves. In many of our bureaucratic systems you find five people sitting around twiddling papers and twiddling their thumbs. I am saying it is fine for a man to have a job. I want him to have a job. But when it comes to helping underprivileged people, I want every dollar to go to underprivileged people to help them that can be helped.

OIC is a non-profit private program. People wonder why I do it. I take no salary for it. I haven't gotten a penny from OIC since I started this thing. Why do I do it? I do it because the resources of America, I think, have to be channeled to programs like OIC to help the people to stand on their feet. Some people have asked me "Well, are you against President Nixon?" No President I know of has done so for black people in America. That is why we are in such a rut and in such a fix as we are in. He is no better or worse than most we have ever had. My little boy said something to me yesterday, he said "Daddy," he said "you can't expect a man to help you by knocking him down." I am not here to knock Mr. Nixon down. He has his problems. I think Mr. Nixon wants to do as best he can. I am not going to knock him down because I have got to work with Mr. Nixon. Although I disagree with many things he might do.

Mr. SPIVAK. We don't have too much time. Dr. SULLIVAN. I am a Baptist preacher and

when Baptist preachers start talking, you know they keep on going.

Mr. SPIVAK. You have been saying if you are going to stay on the General Motors Board, they will have to put more black dealers in. Do you think black dealers should be set up on some special basis by General Motors, do you think a black dealer should be subsidized and kept in business regardless of whether or not he can run that business?

Dr. SULLIVAN. I think once we get a black dealer in a business, we should see to it that he knows how to run it. One of the keys to the ability of a business to succeed is management. The ability of a man to manage a business. Just last week I met with the top officials of General Motors all day to develop a plan to see that more black dealers and more black salesmen get into the funnel of General Motors and within the next year some exciting things are going to happen at General Motors.

Mr. SPIVAK. That is not quite responsive to my question. You wouldn't want to have a black dealer kept in a business if he couldn't run that business profitably?

Dr. SULLIVAN. Absolutely not. Nor do I think black businesses should only be for black people. There is no such thing as black capitalism, for example. There is no such thing. A dollar bill isn't black or white, it is green, and so whatever a black man or a white man can do to develop an economy with blacks and white, that is what I am looking for.

Mr. NEWMAN. We have less than four minutes left.

Mr. ROWAN. Dr. Sullivan, there is a third-world movement coming up where blacks are trying to organize a major protest against the war. Do you think black people have a special reason to oppose the Indochina war?

Dr. SULLIVAN. I think the black people are so concerned with eating and sleeping and living in America that our concerns with the Indochina war are great, but our greatest emphasis is just to survive here on earth.

Yes, we have an interest, but our major interest still has to be, with all the interests we have in Indochina as I have, is right here at home; not just on the moon, right here at home.

Mr. KORTZ. The Nixon Administration has a black capitalism program. Critics have said that it does not have the kind of community participation that you have in your programs. Please evaluate the President's Black Capitalism program.

Dr. SULLIVAN. There is no such thing as black capitalism. Capitalism is neither black nor white. But I think the President's program has done this, it has opened a door for the first time to blacks to see what free enterprise is. It has helped us to do things we never did before. For example, the General Electric Company, and my corporation, and a man by the name of Mark Morton, got together in partnership and set up Progress Aerospace enterprises, the program in which G.E. didn't put money in it, but put skills behind it so that we could develop an enterprise.

Now that enterprise is a multi-million dollar operation because business and the black people got together around the concept of free enterprise. It has opened a door, and I hope to see 50,000 black-owned businesses in the next decade, in America, lifting people and helping people to become a real part of this system, of this system that will become the kind of system we want.

Mr. NEWMAN. We have about two minutes left.

Mr. NESSEN. Dr. Sullivan, you have persuaded a lot of white businessmen to give your graduates of your training schools jobs. The government has a similar plan called JOBS. The businesses have not come up with the jobs they promised under that program. Why have you been able to persuade busi-

nessmen? Is it just the force of your rhetoric and personality?

Dr. SULLIVAN. Well, motivation and because businessmen believe in what we are doing. We are in it because we help businessmen to get manpower for their jobs.

George Champion, one of the great Americans of our day, a retired chairman of the Chase Manhattan Bank, has sold to the business men of America that OIC is good for America and good for business, and now Americans all over America are joining OIC. So, OIC is succeeding where the others aren't because business and the masses are coming together helping each other as we strive to help ourselves.

Let me just say this: Black people for years have had to depend on others for what they want, for where they live, for what they eat. Take away where you live, what you eat, he falls. He has nothing to stand upon.

OIC is saying, "In the next ten years I want to train 1 million people. So if they take away your house, take away your job, take away your welfare, take it away, I won't fall because I have something to stand upon."

I am teaching blackmen and Chicanos to stand on their feet, to help themselves and to help build America so we can change the cry from Burn, baby, burn, to Build, brother, build. Help "OIC."

Mr. NEWMAN. Thirty seconds.

Mr. SPIVAK. Reverend Sullivan, in your book "Build, Brother, Build," you wrote, "I believe in the future of America, regard it as my duty as a citizen to promote the good of the nation."

Now, we have heard a lot about what is bad about America. What do you think is good about it?

Dr. SULLIVAN. America right now is the greatest experiment for human good in this world. If America doesn't succeed, opportunity and equality isn't going to succeed any place in this world.

Mr. NEWMAN. I am sorry to interrupt; our time is up.

Thank you, Dr. Sullivan, for being with us today on Meet the Press.

TOP HOOVER AIDS DEFEND THEIR BOSS

Mr. MCGOVERN. Mr. President, on March 1, I placed in the RECORD a letter from 10 special agents of the FBI. The letter explained that the administration of the FBI has degenerated into a public relations operation to support the reputation of J. Edgar Hoover.

Soon after the publication of this letter in the CONGRESSIONAL RECORD, I received a group of letters from Mr. Hoover's key assistants, complaining that the letter I had introduced into the RECORD was unsigned, and engaging in a personal attack on me for the release of the information it contained.

These letters are almost exclusively from the upper echelon administrators of the FBI, the very bureaucrats who have joined with Mr. Hoover his long immunity from congressional review. Indeed, these are the very men who have cooperated in the redirection of Mr. Hoover's administration from the interests of law enforcement to an overbearing concern for the FBI's public image. Most of these letterwriters have prospered in their favored positions with Mr. Hoover for more than 30 years.

I have been trying to secure congressional review of the administration of the FBI. This response by Mr. Hoover's key aides, sometimes with almost hysterical

vehemence, is the reaction of stultified bureaucracy that sees itself threatened by criticism too long delayed. Indeed, the personal attack by Clyde Tolson, Mr. Hoover's associate director, who has been retained well past retirement age, has well exceeded the bounds of proper comment by a high Government official.

I presented the letter which was on FBI stationery, to the Senate because it raises specific charges about the administration of the FBI which can be judged on their own merits. I released the unsigned letter only after checking with responsible law enforcement officials on the merits of the allegations. Their response was uniformly that the letter made a fair statement of the sorry state of the administration of the FBI.

If Mr. Hoover and his closest associates regard these criticisms as inaccurate, their response should be to support my call for the fair and impartial review of his administration's procedures. To respond instead by personal attacks on me, reveals a bureaucracy insensible to the most critical responsibility of a Government of free men.

Above all we must recognize that their attempt to make this a personal matter betrays their classic tactic of diverting attention from the critical need for congressional review.

These key administrators, who have themselves for decades enjoyed their privileged positions of power, subject only to the whim of Mr. Hoover, purport to speak for the thousands of employees of the FBI. Yet these colleagues of Mr. Hoover refuse to support the very review of personnel procedures which could vindicate the rights of their employees. My own concern began with the discovery of Mr. Hoover's vindictive persecution of a loyal agent of the FBI, John F. Shaw, for privately voicing a criticism of Mr. Hoover. It is in defense of the better nature of the FBI and in defense of thousands of employees who see their dedication distorted to the service of Mr. Hoover's ego that I have called for a review.

So in spite of the response of Mr. Hoover's regime, I will continue to try to secure the needed review. It has been time enough, and this time of ours is too important to be stopped by the pressure of bureaucratic oppression.

Mr. President, Mr. Hoover's associates have requested that their letters be published. I ask unanimous consent that their letters be printed in the RECORD.

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

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR: As a veteran of more than 42 years' service in the Federal Bureau of Investigation who is knowledgeable concerning not only J. Edgar Hoover's extremely capable and inspiring leadership of the Bureau, but also the selflessness which dominates both his official and personal life, I am appalled at the grossly irresponsible and opportunistic attack which you have launched on him.

I label your March 1, 1971, press release

as irresponsible because it is based upon a highly spurious source—a three-page anonymous letter which is replete with sensationalized generalities that are as unsubstantiated as they are false. Although the opening sentence of your release flatly states that this letter was written to you by "10 FBI agents," a careful reading indicates that you, in fact, do not know who wrote the letter or by whom he is (or they are) employed.

I term you an opportunist because it is no small coincidence that you have singled out a man of Mr. Hoover's national stature for attack at a time when waves of publicity are urgently needed to buoy your political career. You are not the first person I have encountered during almost 50 years in Washington whose ambition has far exceeded his ability, and I cannot help wondering how many other esteemed career public servants will be maligned and abused before your political balloon runs out of hot air.

Your March 1st press release is an affront not only to Mr. Hoover, but to the many thousands of dedicated employees—past and present—who have helped the FBI reach a position of nationwide respect and acclaim. Let me assure you that the outstanding men and women with whom it has been my privilege to work since 1928 would neither tolerate nor condone investigative or administrative practices such as you and your anonymous letter claim.

I urge that you give this letter the same publicity which you accorded to the three-page anonymous communication—unless, of course, it is against your policy to call public attention to correspondence regarding the FBI from persons who are neither faceless nor ill-informed.

Very truly yours,

CLYDE TOLSON,
Associate Director.

MARCH 1, 1971.

Mr. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: It never fails to amaze me, and to create considerable concern, when a public figure such as yourself attempts to mislead the people of our Nation through use of an age-old ploy such as an anonymous letter coupled with personal conclusions and innuendoes built on a foundation of sand. The very lead paragraph in your press release of March 1 concerning Mr. J. Edgar Hoover and the FBI is inherently dishonest as it is designed to give the unwary reader the impression that you received a letter from ten FBI Agents concerning undesirable practices existing within that agency.

To save the time of your staff for more important work than checking the identities of correspondents, I am currently an employee of the FBI and have been for in excess of thirty years, and I am currently serving as Assistant Director in charge of the Bureau's Training Division. As such, I am and have been very closely affiliated with all of the FBI's training programs, including the indoctrination and training of newly appointed Special Agents who will be expected to share in carrying out the investigative functions mandated to the FBI. I can say without reservation that every item of training, guidance, instruction and advice that is afforded FBI personnel is geared to create and sustain exemplary public servants who are proud of their motto "Fidelity, Bravery, Integrity."

The pseudo-author of the February 2 communication, had he researched his subject matter better, could easily have determined that FBI statistical accomplishments are not reported in the FBI Uniform Crime Reports. The former are carefully recorded from FBI investigative reports and the latter are compiled from returns voluntarily submitted by municipal, county and state law enforcement agencies. Were not the allegation and impli-

cations so serious, the statement that FBI accomplishments are realized for the most part from minor and petty offenses in which the subjects can be easily talked into pleading guilty would not be worthy of acknowledgment and answer, as the FBI's investigative record in all types of cases falling within its investigative jurisdiction speaks for itself; however, the alleged author pursues this blatant falsehood and adds that Mr. Hoover insists that the FBI concentrate its investigative work among people who do not understand their rights. Senator, I think you know better than that; at least you should, because the performance of our Agents in observing both the letter and spirit of existing laws and court decisions in matters of criminal interrogation, search and seizure, et cetera, has been recorded and documented in many official documents, including decisions handed down by the highest court in our land. We vigorously investigate all violations falling within our assigned jurisdiction without concern for the race, creed, economic and social status or national origin of those who are or may be involved, and I am sure even you will admit it is rather difficult to know the pedigree of any defendant before he is identified and apprehended.

Senator, I have dedicated my life as a public servant to the preservation of our way of life. As a father and a grandfather, I believe the guidance and leadership I have received and am receiving from Mr. Hoover will perpetuate those ideals which I hold so dear. I believe that your unjust attack upon a great American and our organization is completely uncalled for and a direct affront to the loyal and dedicated personnel of the greatest and most honorable investigative agency in the world. I personally deplore the misleading method you have used to attack a great American and his agency, apparently for reasons known only to yourself.

Very truly yours,

JOSEPH J. CASPER.

MARCH 1, 1971.

Hon. GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR: I have read the Washington Daily News item in today's issue which attributes certain remarks to you. It is incredible to me you would attach any significance to an anonymous communication. Surely the stature of your high office I believe would demand greater restraint.

During recent weeks many irresponsible statements not based on facts have been made by persons who can be characterized as engaging in a personal vendetta against the FBI and our Director. It saddens me greatly to see that a member of our most respected legislative body has joined hands with these persons. I as well as many thousands of dedicated FBI employees deeply resent this.

Very truly yours,

AL ROSEN,
Assistant Director.

MARCH 1, 1971.

Senator GEORGE S. MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SIR: To anyone within the FBI the spuriousness of the letter "purportedly" written by an Agent on behalf of other Agents is readily apparent. For anyone occupying a position of high responsibility such as you hold to rush into print with it is extraordinarily reprehensible. If anyone else showed such abandon in treading upon the unimpeachable and richly deserved reputation of a public official, I warrant you would be among the first to criticize and denounce his tactics.

John Edgar Hoover has stood for meticulous fairness and unswerving firmness in the administration of law enforcement duties for

five decades. No one is more aware of this dedication than his own employees and I am sure he bears the slings and arrows of such outrageous actions as yours far better than we do.

I suspect it is in vain, but I would like to think the signed letters you receive from FBI employees obtain the same publicity as the alleged "anonymous" ones.

Yours very truly,

L. M. WALTERS,
Assistant Director.

MARCH 1, 1971.

Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: During 37 years of Government service, I have never witnessed any act so grossly irresponsible or so transparently self-serving as your reprehensible action in issuing a press release today attacking Director J. Edgar Hoover and calling for an inquiry into his administration of the FBI.

First, let me point out that the opening sentence of your press release obviously was written by someone who is either a prevaricator or a fool—because the letter to which it refers as having been written by "10 FBI agents" was, in fact, only *purportedly* written by 10 Special Agents of the FBI. I challenge you to prove your unsubstantiated contention that the three-page anonymous letter actually was written by anyone presently or formerly employed by the FBI.

Second, let me state that during a 32-year career in the FBI, I have had the privilege of working very closely with Mr. Hoover, and I have detected none of the weaknesses of character which you impute to him in your March 1, 1971, release. Nor have I seen the oppressive personnel policies or the contrived scheme to maintain the FBI's image which you and the author(s) of your anonymous letter imply.

Third, let me express my opinion that something is sorely awry with both the judgment and the motivation of any Government official who would be triggered by the completely unconfirmed information in an *anonymous* communication into attacking the record and maligning the reputation of one who has devoted a lifetime to honestly, impartially and selflessly serving the people of the United States.

I consider your press release to be an insult not only to Mr. Hoover, but to the more than 18,000 fine men and women who are honored to serve under him in the FBI; and in reading it, I could not help recalling the "old saw" about political ambition bringing out the worst traits of character in weak and expedient men. With this thought in mind, I want to express my sincere hope that your March 1st release will produce many headlines—not the kind you seek, but the kind you deserve.

Very truly yours,

JOHN MOHR,
Assistant to the Director,
Federal Bureau of Investigation.

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SIR: The release which you issued on March 1, 1971, regarding the FBI refers to the letter to you "from 10 FBI Agents." The copy of the letter in question, which you released, indicates it was written by one unknown individual *claiming* to be a Special Agent who *alleges* he wrote it on behalf of himself and 9 others. I am astounded that you accept without question and lend credence to such statements. If the FBI were to jump to conclusions in such a manner it would indeed be open to criticism.

Actually, the tenor of the letter militates against its authenticity. While it is always possible there is some malcontent in any organization who might write such a letter,

it is inconceivable 10 Agents would get together in any one place and prepare a letter containing such unsupported and unfounded generalities. Our entire training is directed toward getting and presenting facts and it is directed against the use of nonspecific allegations.

We in the FBI have over the years been dedicated to the work of demonstrating crime does not pay and to the building of respect for the law in an effort to motivate people not to harm their fellow man. Under the Director's leadership the Bureau has established its well-known record for steadfast firmness and fairness in the enforcement of the law. This policy has not suddenly changed; it is the same today as it has been for almost half a century.

Your personal vendetta against Mr. Hoover, based in part on such anonymous fulminations, is, however, undermining and destroying what so many thousands of us have labored so long and so hard to achieve.

Very truly yours,

LORENZ H. MARTIN.

MARCH 1, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR: I have read the letter allegedly written by several FBI Agents, given by you to the press, in which the writers object to the discipline in the Bureau. I am amazed that a man in your position, one who holds himself out as a Presidential candidate, would be so irresponsible as to publicize such anonymous gripes without any evidence as to their accuracy.

The fact is the writers make statements which are absolutely false. I have worked for the FBI as an Agent and official for almost thirty years, and during that time Mr. Hoover has never precluded any Agent from investigating any type of violation within our jurisdiction which comes to his attention. Their allegation that Agents are not allowed to fight "real crime" is, therefore, ridiculous. Neither are our efforts directed primarily against minority groups, as the writers infer. When the FBI investigates a complaint of a crime from a member of the public, it does not know initially who committed the crime but directs its efforts to solving it, whoever he may be. It is not Mr. Hoover but Congress and the Attorney General who determine what types of violations the Bureau investigates, but Mr. Hoover has always insisted that every investigation be given the same vigorous and meticulous attention. The number of bank robbers, kidnapers, and top figures in organized crime which the FBI has brought to justice and the thousands of Agent days devoted to these cases testify to the effort expended on major cases.

The writers state that the FBI could be a force for good if they were allowed to do the job that needs doing, but they fail to state what that job is or to specify even one case where the Bureau's responsibilities have been neglected. They cannot do so truthfully because none have been.

There is no doubt that in any tightly disciplined organization there are those mavericks who chafe under it, and they are always free to leave but, in my opinion, it is the discipline exercised by Mr. Hoover and his insistence on the pursuit of perfection that is largely responsible for the efficient, hard-hitting law enforcement agency which he has built. It is because of this discipline and the achievements it has produced that I have remained with the Bureau proudly for so many years.

Because of my official position, I'm sure you will discount this as a mandatory defense of Mr. Hoover. It is not. I could have remained silent, but I admire him and his achievements tremendously and I could not

sit quiet while he and the organization are unjustly maligned.

In view of your self-proclaimed concern with fairness and justice, I'll be interested to see if you afford my defense the same nationwide verbatim publicity which you arranged for the anonymous criticism.

Very truly yours,

SAXBY TAVEL,
Assistant Director,
Federal Bureau of Investigation.

MARCH 1, 1971.

GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: I have read your reply of March 1, 1971, to a letter allegedly written by you on behalf of ten unnamed Special Agents.

It is evident to me that you take as the truth anything which is critical of Mr. Hoover and the FBI, although I dare say a little research on your part would show its untruth. If you want a factual description of FBI operations, why don't you take a look at Mr. Hoover's annual testimony before the House Subcommittee on Appropriations? Perhaps that's too much work and might contradict the version you want to believe, the version that catches the headlines and brings publicity to the aspiring presidential candidate.

As a veteran employee of almost 29 years service in the FBI under Mr. Hoover's dedicated leadership, I protest your unwarranted and untrue accusations.

Very truly yours,

EUGENE W. WALSH,
Inspector, FBI.

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: As one of over 7000 who have chosen the FBI as a career, I have resented your recent all-out attack on Mr. J. Edgar Hoover. At the same time, I recognize that anyone as prominent as Mr. Hoover is fair game for an individual with admitted Presidential aspirations, and every time you launch an attack your name will appear in the public press. This is a tested and proven sure-fire public relations operation, and following P. T. Barnum's theory, there will doubtlessly be a few suckers who go for the bait.

Fortunately for those of us who work for Mr. Hoover, he is a man who has worked for and earned the reputation as one of this country's outstanding civil servants, and that reputation will withstand the brickbats of those who choose to attempt to raise their stature at the expense of others.

I joined the ranks of the FBI in 1939 when it was a much smaller organization. I have seen it grow through all these years under the firm but fair leadership of Mr. Hoover. Throughout all these years there has been a very small number who could not stand up to the discipline required to be a Special Agent of the FBI. Some of these few felt that the answer to their frustrations was to launch an attack on the organization by means of anonymous letters.

I hope, Senator McGovern, that when you have served this country as long as Mr. Hoover has, you will be able to look back with just a small fraction of the pride of accomplishment that I am positive Mr. Hoover can do today.

Very truly yours,

WILLIAM V. CLEVELAND.

MARCH 1, 1971.

Senator GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I have just had the displeasure of reading your March 1, 1971, press

release and frankly was astonished to learn that one who holds the high office of United States Senator could be so gullible, or so hungry for headlines, as to endorse an anonymous letter, one completely devoid of substantiation, in the manner you have done.

Having served in the FBI for nearly 30 years, I can assure you that the FBI was not built into the outstanding organization it is today by anyone whose tactics were so high-handed, or whose activities were so objectionable, as your March 1st press release implies. Furthermore, as Assistant Director in charge of the FBI's Inspection Division, I can assure you that the FBI's constantly growing record of accomplishments could not be, and has not been, produced at the hands of men cowed and intimidated by their Director. On the contrary, the dedication which prompts Agents day after day to put public interests above their own personal comfort and convenience is indicative of the strong and courageous leadership which we receive from Mr. Hoover.

I strongly doubt that the anonymous letter which you have publicized was written by "10 FBI agents" as claimed in your March 1st release, and I strongly question also your ability to prove this very positive assertion. In addition, I am repulsed by your reprehensible efforts to undermine public confidence in so genuinely dedicated and rightfully revered a public servant so that your own political ambitions and interests might be served.

Yours truly,

W. MARK FELT.

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: Your recent disclosure of an anonymous letter has reached a new low in your campaign to malign J. Edgar Hoover, and prompts me to call a few facts to your attention.

I have worked for Mr. Hoover since I was 18 years old and am now nearly 50 and intensely resent your obvious endorsement of the anonymous letter writer as well as the efforts of a former FBI Agent whose cause you are championing, who are trying to picture Mr. Hoover as an ego-maniac, arbitrary, capricious and senile person whose only aim is to personally aggrandize himself. What makes this particularly distressing is that undoubtedly the people whose prattling you are disseminating have never talked to Mr. Hoover or had any personal dealings with him.

I have talked with him on hundreds of occasions, both personally and telephonically, and have always found him to be most thoughtful, courteous, and without arrogance. Far from being senile, his mind is as razor sharp now as it was when I first talked to him 20 years ago. He has always insisted on the FBI being a "we" organization and is quick to recognize and commend outstanding investigative accomplishment.

You, of course, are trying to picture him as a heartless ogre, completely insensitive to the personal problems of FBI Agents. This is blatantly false. I have seen over the years hundreds of cases where Mr. Hoover has given Agents transfers to various parts of the country because of health problems of either the Agent himself or members of his family. During times of personal crisis, such as deaths in the family and other personal problems, he has been a tower of understanding and comfort to the employees of this Bureau.

An FBI Agent with whom I worked was transferred a short time ago from Los Angeles to Washington, and before he could move his family, the earthquake severely damaged his home; fortunately his family was uninjured. Mr. Hoover, upon hearing of

his plight, ordered him immediately returned to California on temporary assignment so he could be with his family and resolve his personal problems. Does this sound like the inhuman monster you are portraying to the American public?

Mr. Hoover could retire tomorrow on full pay, so in effect he is donating his services to the American public out of a sense of deep dedication and patriotism. You obviously have chosen to ignore, or at most minimize, his great contributions to our country—cleaning up the gangsters of the 30s; the saboteurs and spies of World War II; the Rosenberg atom spy case; the elimination of kidnaping as a major threat to this country; the hundreds of bank robbery, extortion and major thefts solved; the establishment of the FBI Academy and the FBI Laboratory; the solution and capture of the slayer of Martin Luther King; the solution of the Yablonski murder case, and the Barbara Mackle kidnaping case. I could go on for many pages.

I can only conclude that your motives for this unwarranted attack are certainly suspect and it appears that you are trying to sacrifice Mr. Hoover on the altar of personal ambition to curry favor with the various dissident elements in our country.

Very truly yours,

JAMES H. GALE.

MARCH 2, 1971.

Senator GEORGE S. MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SIR: It was somewhat surprising to note that you have begun so early to strike out blindly at dedicated public servants in your quest for further political aggrandizement. I am referring to recent publicity in Washington newspapers quoting you as advocating the need for a Congressional investigation of the FBI and its Director, Mr. J. Edgar Hoover. Surely you have better reasons to offer your Congressional Colleagues for such action that you have provided to the Information Media and the general public. Also, despite my knowledge of your affinity for anonymous letters of highly questionable origin, I intend to sign this communication and identify myself.

I am a career government employee with almost 37 years of service in the FBI. I currently hold the rank of Inspector. I started as a clerk, completed college and law school, and was appointed a Special Agent. I have worked as a Special Agent, Supervisor, and Special Agent in Charge prior to my current assignment. This brief autobiography is not to impress you but is to establish my qualifications and to state unequivocally that your statements and innuendoes that FBI personnel spend too much time "polishing" Mr. Hoover's image are irresponsible and totally without foundation of fact.

The most bothersome aspect of your attack upon the FBI, if for the reasons you gave, is that I believe you know better. Our successes in the investigative field, within the purview of our jurisdiction, through the years would certainly negate any claims that our Agents spend most of their time protecting and polishing Mr. Hoover's public image, rather than fulfilling their investigative responsibilities. To carry the absurdity even further, if an employee did attempt to handle his official duties and responsibilities in the manner you suggest, Mr. Hoover would be the first to criticize and correct his performance and judgment. If you want to contend that efficiency and high level of performance in government service are nothing more than ploys to reflect upon the head of an agency, then I certainly hope that I and my associates are and have helped to sustain the image of the FBI. Whether you believe it or not, Senator, your statements, actions, and performance reflect directly upon the image of the people in your State.

I am certain that the people who read the results of your press release will feel the same as I do; namely, that your irresponsible and misleading attack upon Mr. Hoover and the FBI has done a disservice to the people of your Nation and a grave injustice to a dedicated man who has contributed most of his adult life to helping the people of our country and sustaining the American way of life.

Very truly yours,

THOMAS J. JENKINS.

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR: I have read your press release of March 1, 1971, and I find it totally incomprehensible that a man, entrusted by the citizens of his state with the honor of the office of Senator would choose to align himself with forces seeking to undermine public confidence in one of the truly great leaders and dedicated public servants of our Nation. Your actions become even more reprehensible when you adduce in support of that position "faceless" accusers in the form of an alleged anonymous letter.

I don't personally believe the anonymous letter to which you have referred was written by "ten FBI Agents" as claimed in your release, and as a proud member of the FBI team for many years I assure you the allegations contained in the letter are wholly without foundation in fact in my experience or knowledge. Indeed, to anyone who has the privilege of knowing Mr. Hoover, the anonymous letter impeaches itself by alleging that the Director of the FBI demands an attitude of "take the easy road." Nothing could possibly be more completely sheer nonsense than this allegation. No individual, Agent or otherwise, who has ever worked for the FBI can honestly say that he has ever been even permitted to take an "easy road," much less encouraged or ordered to do so. On the contrary, the uniform experience of all of us is that of having to exert ourselves to the utmost in order to meet the very high standards of conduct and work performance which Mr. Hoover, on behalf of the American people, sets for himself and for all of his associates in the FBI. As a taxpayer, and as an American citizen concerned for the welfare of our country, and as an employee believing in his work, I am personally grateful for these high standards.

I am not impressed by the statements of "faceless" accusers; such accusers are foreign to the American philosophy. I am far more impressed by the statements and actions of an entirely different group of persons, namely, the Presidents of our country. Our Presidents are able and distinguished men duly elected by the people as their chosen leaders, sworn to uphold American ideals and our way of life. Election to the Presidency certainly is one of the highest honors and the greatest expressions of confidence our country can bestow. Since 1924, in unbroken sequence and without exception, every one of our Presidents, in spite of varying party affiliation and in spite of varying philosophy of government, has shown one characteristic in common with all the others, namely, unanimous opinion concerning the outstanding qualifications and consequent choice of Mr. Hoover to head the FBI.

Therefore, I am compelled to wonder, Senator, if you have ever really taken the time to look closely at the group or to study the motives of those who have chosen to be Mr. Hoover's detractors, the group with which you have now chosen to align your support. Obviously, our Presidents over the years have taken such a close look, and the recognition and evaluation of certain of the components of that detractor group are undoubtedly among the many outstanding reasons leading

the Presidents uniformly to retain Mr. Hoover as Director of the FBI. Certainly the American public has shown that it also has evaluated the unwarranted attacks as well as the underlying motives, and has demonstrated its support of the action taken by the Presidents in this regard.

Accordingly, contrary to your unfounded implications that personal privacy and personal freedom are being jeopardized by the abuse of power, the vast majority of Americans know from long years of experience that there is neither now nor has there ever been a greater champion of their true personal privacy and personal freedom than Mr. Hoover. You do yourself and the citizens of your great State a monstrous disservice in lending support to the unfounded and "faceless" allegations.

Yours truly,

IVAN W. CONRAD,
Assistant Director,
Federal Bureau of Investigation.

MARCH 3, 1971.

Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: The right to criticize public officials and agencies is an undeniable one under our system of government. And when the criticism flows from a United States Senator in the form of statements to the press the hope always exists that it will be fair and responsible.

Your most recent personal attack on Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation, meets neither of these standards.

I was shocked to read the press story on Monday in which you were referred to as citing "new proof" in the form of an "anonymous" letter purportedly written by "10 FBI Agents." The technique of making public charges on the basis of anonymous material is a reprehensible one but I realize, after reading the Congressional Record, that you have simply utilized it as a convenient tool in furthering a very personal attack upon Mr. Hoover.

Deliberately maligning a man in the course of an acrimonious personal attack hardly serves the purpose of constructive criticism. And your implication that the FBI is an organization "dedicated to its perpetuation and glorification without regard to the public interest" and "devoted above all to sustaining the power and ego of one man" is not just untrue, it is unpardonably shabby. These characteristics pervade the other charges and distortions.

I am very proud of my career as a Special Agent of the FBI which has spanned over 30 years. It is an organization devoted to public service, to integrity of operations, to excellence in performance and to discharging its responsibilities with the due regard to the rights of all. Those standards have flowed from the dedicated personal leadership of Mr. Hoover and have found expression in the efforts of many fine, capable employees with whom I have been associated over the years.

You demean us all with your unprincipled attack.

Very truly yours,

STERLING B. DONAHOE.

MARCH 4, 1971.

Senator GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: As an FBI Inspector with over 23 years of service, I am constrained to take issue with you on your recent vitriolic attacks on our Director. While you may consider it politically expedient to assail Mr. Hoover, the unfortunate result is not only the degrading of a dedicated American, but the debasing of an organization which for years has stood as the pinnacle of law enforcement.

Shaw's allegations and those of the "faceless informers" are replete with outright falsehoods and misconceptions. I am disturbed that a man of your background would take any stock whatsoever in assertions made anonymously or by an individual who elected to air alleged grievances without extending the courtesy of making his thoughts known to his superiors. I wonder how long you would employ one of your assistants under similar circumstances.

There are a number of reasons why the FBI over the years has been so successful in its investigative endeavors. Paramount is the tight discipline under which we all operate. The success of any organization, whether it be civilian or military, is directly related to the discipline which exists. General MacArthur and Vince Lombardi are additional excellent examples of this.

While I recognize you have a right to condemn or attack any person or organization, I personally feel you are doing a disservice to a great American and causing irreparable damage to law enforcement in general. The conditions existing in our country today cannot tolerate either.

Very truly yours,

REX I. SHRODER.

MARCH 3, 1971.

Senator GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

MR. DEAR SENATOR: Seeing that you recently have shown a great interest in the views of other FBI Agents on the FBI and Director John Edgar Hoover, I thought you might be equally interested in mine.

Let me first introduce myself. I was born and reared on a farm in Iowa. My wife is a native of Centerville, South Dakota. Thus we share a Midwestern orientation, which we like to think of as characterized by a strong sense of individuality and fair play. I have worked in private industry, and have now been employed in the FBI for more than 30 years. I have worked in five field offices, on foreign assignment during World War II, and in five divisions at FBI Headquarters. I have been censured for mistakes, commended for good work, and, quite obviously, I have been transferred and have taken the transfers some of which were not to places of my own choosing. I know the organization, its people, and its policies. I have for years been eligible to retire, have been offered interesting employment elsewhere, and have stayed because I believe in the FBI, the merit of its work, and the quality of its people.

There is no time or space here to debate each of the many points of criticism which have been raised to you. I take what seems to me to be the central issue, namely, that there is a "cult of personality" in the FBI, centering on the Director. The term is one impossible of precise definition. But if it means what I think it is intended to mean, it is an odd charge indeed. It is my impression that every President of the United States, every chief executive of every business, and every other person who manages any legitimate establishment seeks to blend into his administration his own personal views of what is right and what is wrong. He thus puts the stamp of his own personality upon the organization. Moreover, he expects a certain basic loyalty to him and to his directives. He expects, and quite properly, that subordinate employees will either defend him and the organization, or go elsewhere and criticize to their hearts content. I would expect to find all of this in your operation of your own office and quite frankly, I fall to see in what respect it is improper. I know of no other way in which any centrally directed organization can operate.

Mr. Hoover has done no more than place upon the FBI his personal stamp of what he believes to be proper in the administra-

tion of public office. If you demand of your own employees the hard work, personal discipline, integrity, and imagination that Mr. Hoover has demanded of us, our nation is the better for it.

If by "cult of personality" the critic means praise of Director Hoover, and admiration for him within the FBI, the charge must be admitted. You seem to forget that we are necessarily dealing here with a man of enormous fame and ability. Not since Sir Robert Peel reorganized the police of England in the early 1800's has one man, by his own efforts, so tremendously improved law enforcement as has John Edgar Hoover. I challenge to you to name his superior in this respect, for none exists.

The proof is abundant, and much too voluminous to cite here in its entirety. As one example, the decision of the Supreme Court in *Miranda*, giving a criminal suspect in custody certain rights concerning counsel and self-incrimination, was hailed throughout this nation as a modern Magna Charta of human rights. Yet the FBI already had, for decades, been advising the suspect of his right to counsel, and his right to say nothing, on the orders of Director Hoover. As another example, it is now quite strongly believed that police officers should be better trained in their profession, and the Congress has made large amounts of money available for this purpose. Director Hoover started this idea in the FBI more than a third of a century ago when he inaugurated the FBI National Academy in 1935 for police officer training. As I said, other examples abound. It is inevitable that a man of such uncommon ability will draw praise and admiration, from within the organization as well as from without, and that he will continue to do so as long as man celebrates the nobility of his fellow man rather than the reverse. Is this wrong?

I am intrigued, also, by the "evidence" upon which you rely to "prove" that Director Hoover and his policies do not meet with the approval of FBI employees. You have mentioned the complaints of one former Agent and one present Agent, the latter anonymous. Assume that you have 11 Agents, if the word of the anonymous letter writer can be believed. You disregard the fact that the FBI has approximately 7,000 Special Agents and the great bulk of them give no support to these charges. You disregard the fact that the FBI has thousands of former Special Agents and that at a National Convention of their organization a few years ago, they cheered Director Hoover to the rafters when he spoke before them. You disregard the fact that large numbers of FBI Agents stay on past the minimum retirement age when they obviously could "escape" if they wished to do so. You disregard the fact that sons and daughters of former Agents are now working for the organization. In short, you have taken the word of so few against that of so many. What would you think of me as an investigator—or as a man—if I brought charges on the basis of such limited testimony so heavily contradicted?

That there are a few who disagree with Mr. Hoover and his policies is obvious. There always will be those who chafe at discipline and long hours of work and other points of criticism, real or imagined. I think it is a total answer to say that neither you nor anyone else could put together a force of 7,000 Special Agents or other employees without having a few who would disagree with your policies.

One thing more. The Shaw case is now in the courts. I should think that in such a situation those who believe in the American system, and in the just resolution of disputes among men, would be willing to leave the case to the courts to decide.

Sincerely yours,

DWIGHT J. DALBEY,
Assistant Director, Legal Counsel.

MARCH 4, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: As a reputedly educated man and former teacher, I assume you know that a demagogue is defined as a person who tries to stir up people by appeals to emotion and prejudice in order to achieve selfish ends. As a politician, I also assume you could not care less!

I am led to this conclusion by your eager acceptance of two letters, written by people whose credentials are entirely unknown to you, as proof that a distinguished American leader has now become "a liability to law enforcement." May I ask by whose standards you made this rapid and far-reaching conclusion? Did you use any other criteria than these two questionable documents to reach your decision that it is now imperative that a serious review of Mr. Hoover's administration of the FBI be made?

As a veteran employee of the FBI, I deeply resent the use of sweeping and prejudicial language such as employed by you in the Congressional Record when you alluded to "a pattern of public and private conduct" on the part of Mr. Hoover which you say is "common knowledge among law enforcement officials." What specifically do you mean, Senator, and how about some documentation of these ugly insinuations? Or, am I asking you to respond as a man of scruples when I should know better?

Disraeli once said that demagogues and agitators are very unpleasant, but they are necessary evils of a free and constitutional country and we must put up with them or do without many important advantages. This may be true, Senator, but I deeply regret it for you are the type of unprincipled individual that makes the gorge rise beyond endurance.

Very truly yours,

WILLIAM B. SOYARS, JR.,
Inspector, Federal Bureau of Investigation.

MARCH 4, 1971.

Senator GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: While this letter is inspired by your press release of March 1 and the anonymous letter which you made public with it, I had delayed writing because I wished my communication to you to be completely dispassionate.

I must say, however, that your action in making public an anonymous letter which contains baseless accusations against Mr. Hoover and the organization to which I have dedicated over 29 years of my life, is completely reprehensible. I realize, of course, that your ambition to become President requires that you keep your name before the public, but I feel that you have seriously injured your credibility, as well as tarnished your qualifications for high office, by relying on an unsigned letter as proof of very serious charges made by you.

I am certain that the American public would not want to put its trust in the hands of a man who has demonstrated the lack of both principle and ethics that you have shown. While you have gained your few miserable lines of type, which apparently are so urgently required by your ego and your ambition, you will find that in the long run these two characteristics will be the cause of your political downfall.

Mr. Hoover and the FBI have honorably served the people of the United States for over 46 years. This record cannot be sullied by anonymous letters made public by publicity-hungry politicians.

Very truly yours,

THOMAS E. BISHOP,
Assistant Director,
Federal Bureau of Investigation.

MARCH 4, 1971.

GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SIR: On this my Thirty-sixth Anniversary of service in the FBI I write you to register my disgust with your obviously politically inspired statements concerning the Honorable J. Edgar Hoover, Director of this outstanding organization.

Your most recent statement of March 1st was based on a letter prepared by ten alleged FBI Agents. If, in fact, they are FBI Agents they do themselves and the Bureau a great disservice and are not worthy to carry the credential and badge of an FBI Agent. One phrase in the letter raises the gravest doubt as to their authenticity—it is the allegation that Mr. Hoover is demanding an attitude of "take the easy road."

Mr. Hoover did not build the Bureau into the organization it is today nor overcome all of the obstacles and survive all the attacks against him and the organization by taking the easy road. Neither has any employee who has worked for the organization ever considered the accomplishments achieved could be attained by taking the easy way.

You make much to-do over the point of personal loyalty, belaboring it as if it were a great evil. Such loyalty cannot be demanded and then expected. It can be earned, however, as Mr. Hoover has earned it and then appreciated as he himself consistently evidences, not only to the FBI as an entity, but to its personnel as well. Loyalty in the Bureau is not unilateral as some would have had you believe, but is very much a two-way street.

I am proud of the years I have worked for Mr. Hoover and the FBI. They have not been "easy" years, but have been rewarding in ways that your nameless, gutless writers wouldn't understand.

The absurdities written or mouthed by a few persons will not, and they cannot in any way, negate or even slightly tarnish the accomplishments or character of the FBI or Mr. Hoover.

Very truly yours,
NICHOLAS P. CALLAHAN,
Assistant Director.

MARCH 2, 1971.

Senator GEORGE MCGOVERN,
U.S. Senate, Washington, D.C.

DEAR SENATOR: I wish to strongly protest your remarks criticizing the administration of the FBI, reportedly based on an anonymous communication of complaint from ten Agents of the FBI.

Publicly attacking the character and motives of the man who has made the FBI what it is, J. Edgar Hoover, based upon what is likely a phony letter, which its author or authors lacked the integrity to sign, I feel is totally unfair and completely unbecoming a candidate for the highest office of this land. The big smear technique may gain temporary headlines, but I sincerely doubt that many members of the public will be fooled.

That one holding an office as you uses such a method to gain attention insults the honor and integrity of the thousands of men and women I have been privileged to associate with during my almost 30 years service with the FBI. You have, in my opinion, done a grave disservice to our country by your unwarranted and unsubstantiated criticisms.

Very truly yours,
JAMES F. BLAND.

MARCH 4, 1971.

Senator GEORGE MCGOVERN,
United States Senate,
Washington, D.C.

DEAR SENATOR: As one of the 18,000 present FBI employees with more than twenty years' service under the leadership of J. Edgar Hoover, I resent your personal vendetta against the FBI and its Director.

Rashly and brashly you charged on February 10th that Mr. Hoover committed contempt of Congress by declining to furnish a subcommittee data in the case of former FBI Agent John Shaw, and you demanded the subcommittee call the FBI Director for a hearing. Your total lack of knowledge regarding the facts in this case was clearly set forth in subsequent news articles. It is indeed fortunate that your associates in the Senate and on the Subcommittee on Administrative Practice and Procedure, as well as the American electorate, hold other views.

Your press release of March 1st, on your personalized stationery letterhead, was a self-serving political advertisement. The inclusion of an anonymous letter, which you blatantly called a letter from "ten FBI Agents" with insufficient evidence to support this contention, cannot be justified by political expediency. How will your present supporters, and those whom you hope to rally to your support, view the tactic of using an anonymous letter of unproved charges to indict a man whose long-standing record is public knowledge?

We all, however, can take some measure of comfort and consolation in the realization that the American public, who have respected and benefited from Mr. Hoover's half century of dedicated public service, will be the jury in regard to his record—and will also bring in the verdict concerning your presumptuous preposterous grasp for political power and prestige.

Very truly yours,
RUFUS R. BEAVER,
Inspector,
Federal Bureau of Investigation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 2(a), Public Law 91-213, the Speaker had appointed Mr. SCHEUER and Mr. ERLBORN as members of the Commission on Population Growth and the American Future, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 44 United States Code 2701, the Speaker had appointed Mr. BURLISON of Missouri and Mr. LUJAN members of the Federal Records Council, on the part of the House.

ENROLLED JOINT RESOLUTIONS SIGNED

The message announced that the Speaker had affixed his signature to the following enrolled joint resolutions, and they were signed by the President pro tempore:

H.J. Res. 16. Joint resolution to authorize the President to designate the period beginning March 21, 1971, as "National Week of Concern for Prisoners of War/Missing in Action"; and

H.J. Res. 337. Joint resolution authorizing the President to proclaim the second week of March 1971 as Volunteers of America Week.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. TALMADGE. Mr. President, we continue to debate a principle that is so fundamental to the constitutional role of the Senate that it should need no debate at all.

Because of its rules, because of freedom of debate—which embraces the ideal that each Senator stands on equal footing with every other—the U.S. Senate is respected as the guardian of fundamental liberty in this country and enjoys the confidence and admiration of the masses of this Nation and of the world.

By and large, the Senate has adhered to the cardinal rule that no extreme or far-reaching legislation affecting the basic rights of the people of the United States be adopted without substantial unanimity and support of the Senators and their constituents.

Union, not division, has been the Senate goal.

The right of every Senator to freedom of debate is the great buffer which protects both the smaller and larger States from imposing upon each other.

I would like to refer again to hearings conducted by the senior Senator from New York (Mr. JAVITS) and myself during the 85th Congress.

I would like to reiterate conclusions of my report on those hearings. Those conclusions are as valid and meaningful today as they were then. In my judgment, they get to the heart of the issue that we consider today. I now quote from my report:

Freedom of debate is the only effective screen which the people have against hidden defects, both unintentional and calculated, which escape detection in the hasty process of passage by the House of Representatives. Without this backstop for the people, unfairness, discrimination, and special privilege for the favored few might well come to be the rule rather than the exception.

Even a cursory study of constitutional history and an examination of contemporary documents penned at the time of the drafting of the Constitution and its approval by the States show beyond any doubt that the creation of the Senate, as a continuing council of States wherein each has an equal voice, was the price of forming the General Government.

At the formation of this Government the Constitutional Convention stood for the protection of private economic interests; a stronger central authority; a stabilized monetary policy; orderly legal processes; and for a republican form of government as opposed to an unlimited democracy.

The whole motivating spirit of the Convention—not expressed but clearly understood—was to make the Nation safe from the tyranny of unchecked majorities. The intention is unmistakable as one may deduce from James Madison's own notes and also from the papers of most of the delegates.

No doubt if Madison, Thomas Jefferson, Alexander Hamilton, and John Jay could return to the scene today they would be shocked at the manner in which some of their writings have been distorted out of context, particularly with reference to the question of the nature of the Senate, and freedom of debate therein.

A favorite device of the advocates of gag rule is to quote Alexander Hamilton's contributions to the *Federalist* in support of their position.

An examination of these quotations in the light of context and the theme of the entire series of letters reveals such quotations to be a complete distortion of truth.

The whole spirit pervading *The Federalist* and the elucidation of its component letters regarding the foundation of the Senate cry out for the maintenance of freedom of debate in that body.

It must be borne in mind that Hamilton and the other patriots of that day were writing about inadequacies of the loosely drawn Articles of Confederation and in favor of the adoption of a clear-cut new Constitution. In the quotations most frequently attributed to Hamilton on this subject, he was detracting from the Articles of Confederation in a concerted effort to convince the people that the new Constitution was good for the country and should be ratified by the States.

Hamilton is often quoted from letter 22 in which he stressed the weakness of the requirement that legislation adopted by the Continental Congress receive the approval of three-fourths of all the States. That quotation, while applicable to that situation, by no stretch of the imagination can rightly be applied to free debate in the Senate.

Another quotation frequently attributed to Hamilton by proponents of majority cloture is the one referring to the treaty-making power and other resolutions. There must have been strong sentiment for a constitutional two-thirds requirement before Senate approval, for Hamilton sought to allay the fears of the people urging the view that a simple two-thirds would be sufficient in any circumstance for protection against abuses.

By no rule of logic can the language quoted from Hamilton in letter 75 be applied to the fundamental right of a State to be heard from fully through its Senators in Senate debate.

Thus, it is a gross distortion when we have those of the present seeking to apply the words of the great patriots of the past in an effort to detract from the Constitution and the principles of government which they established when, in reality those quotations when written were in reference to the Articles of Confederation.

There is no comfort for any proponent of gag rule in the Senate in the words of any of these founders of our system of government. Jefferson, for example, wrote in his *Manual of Parliamentary Procedure*:

"The rules of the Senate which allow full freedom of debate are designed for protection of the minority, and this design is a part of the warp and woof of our Constitution. You cannot remove it without damaging the whole fabric. Therefore, before tampering with this right, we should assure ourselves that what is lost will not be greater than what is gained."

Hamilton foresaw just such a day as this when he wrote in *The Federalist*:

"There are particular moments in public affairs, when the people, stimulated by some

irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind?"

It is significant that, in urging the adoption of the Constitution by the States, Hamilton emphasized that the Senate is far more than an "upper house" in the commonly accepted sense of the term:

"I am not unaware of the circumstances which distinguish the American from other popular governments, ancient as well as modern . . . Many of the defects, as we have seen, which can only be supplied by a senatorial institution, are common to a numerous assembly frequently elected by the people, and to the people themselves . . . The people can never willfully betray their own interests; but they may possibly be betrayed in the hands of one body of men, than where the concurrence of separate and dissimilar bodies is required in every public act."

Another phase of this question is whether the U.S. Senate is a continuing body and whether the Senate is the sole judge of the rules under which it functions.

The *Federalist* sheds important light on these objects.

For instance, Hamilton in letter 62 stresses that the Senate is more than just an extended version of the House. He alludes to the qualifications required of Senators, the nature of the senatorial trust as contradistinguished from membership in the lower branch, and emphasizes the "necessity of some stable institution in the Government."

In letter 63 he wrote:
"An assembly (the House of Representatives) elected for so short a term (2 years) as to be unable to provide more than one to two links in a chain of measures, on which the general welfare may essentially depend, ought not to be answerable for the final result, any more than a steward or tenant, engaged for one year could be justly made to answer for plans or improvements, which could not be accomplished in less than half a dozen years."

"The proper remedy for this defect must be an additional body in the legislative department, which, having sufficient permanency to provide for such objects as require a continued attention, and a train of measures, may be justly and effectually answerable for the attainment of those objects."

Those words adequately describe the role of the Senate and prove beyond all doubt the deliberate intent of the framers of our Government to create it as a continuing body.

Now, as to the question of whether the rules of the Senate carry over from session to session and are permanent, valid, and subsisting until changed by proper procedure, let us look to John Jay's *Federalist* letter 64 for the incontrovertible answer:

"It was wise, therefore, in the (Constitutional) Convention to provide, not only that the power of making treaties should be committed to able and honest men, but also that they should continue in place a sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system of the management of them. The duration prescribed, is such as will give them an opportunity of greatly extending their political information, and of rendering their accumulating experience more and more beneficial to their country."

"Nor has the Convention discovered less prudence in providing for the frequent elec-

tions of Senators in such a way, as to obviate the inconvenience of periodically transferring these great affairs entirely to new men—for, by leaving a considerable residue of old ones in place, uniformity and order, as well as a constant succession of official information will be preserved."

That language shatters once and for all time the contention that the life of the Senate is only 2 years and that its rules must be altered from session to session.

The system "formed and introduced in the Senate to manage and resolve grave issues of national concern has served the country well."

The tragic inconvenience of periodic upheaval in this institution of the Government has been prevented; "uniformity and order" insured.

How has this been done?

There can be only one answer in the light of history: this body has functioned through wise and just rules that have withstood the tortuous test of time.

It is only reasonable and logical therefore, that any proposed change in those rules should be open to the fullest and most completely unfettered debate.

If freedom of debate, the committee system, and the seniority system are destroyed or weakened in the Senate, this body will become nothing more than a useless appendage of the House of Representatives.

There has been much ado about the authority for moving the previous question having been included in the early rules of the Senate.

Though such was the case, the rule was resorted to only four times and used only three times in 22 years.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CHILES). Does the Senator yield?

Mr. TALMADGE. Mr. President, I am delighted to yield to my good friend, the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, was the previous question as utilized in those very early years following 1789 similar to the previous question as it is today used in the House of Representatives?

Mr. TALMADGE. No, it was not. As a matter of fact, it did not foreclose further debate. The previous question as used in the Senate was merely to bring up an issue for discussion and not foreclose debate, as was the case in the House of Representatives.

We have never had a previous question rule that would shut off debate in the U.S. Senate. And God forbid that we ever have it.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator.

Mr. TALMADGE. Mr. President, I thank my distinguished friend, the Senator from West Virginia, for his contribution.

I continue reading:

It can safely be concluded from the experience that any limitation on free expression was obnoxious to the patriots of that day. Certainly, it may be assumed further that this was the underlying reason that the rule was dropped by the Senate during the time Jefferson was President.

Even though under that previous question rule they did not have the authority to cut off debate. It was obnoxious to the Senate to even think of anything that would smack of terminating debate. That particular rule was dropped

by the Senate and never used again, even though it had no effect in cutting off debate.

I continue reading:

The fact of the rule being in existence during these first years is hardly significant. It means merely that it was carried over automatically from the Continental Congress and was later discarded.

It is argued by the opponents of free debate that the Senate of the United States is the only place in the world where the gag rule does not prevail. My answer to that is: "so what?"

The pages of history are literally filled with Republican forms of government that committed suicide by their parliamentary bodies delegating to the Executive dictatorial and arbitrary power that could have been used by skillful men had they had an opportunity to discuss the situation at some length and alert the country of the fearful consequences of what was considered by their parliamentary bodies:

The patriots who established this Government were free men and did not elect to surrender their new and hard-won liberties nor to copy the governments of foreign lands where freedom either did not exist or came and went with the political tide.

The point also has been made that the Senate's cloture rule is more liberal than similar rules of most State senates. To make such a comparison is to misconstrue totally the unique position which the United States Senate occupies in our Federal-State structure.

As we have seen from Alexander Hamilton's writings, the Senate is not an "upper house" of a national legislature in any sense of the word.

The Senate exercises quasi-executive functions in relation to the treaty-making power. The Senate sits as a judicial body in impeachment proceedings.

The Senate must give its advice and consent to the appointments of the Executive.

The Senate is the repository of State sovereignty on the National level.

The Senate cannot legitimately be compared in any terms with either State senators or with the assemblies of foreign nations.

One reason given by those advocating that the Senate of the United States surrender its freedom of debate is that the House of Commons of the British Parliament has done so.

What they either forget or choose deliberately to ignore is that much of the difficulty experienced by Great Britain as a nation and as a world power has stemmed directly from the loss of freedom of debate in the House of Commons and a steady diminution in the power of the House of Lords.

The British system of government is not and never has been comparable to the constitutional system of government created here.

Every right the Englishman has is at the mercy of a majority in the House of Commons.

It was not always so.

A little over 75 years ago unlimited debate in Commons and the veto power in the House of Lords served as mighty barriers against the evils of state socialism.

Those two safeguards restrained competing political parties from inflicting too great harm on each other or on the country, but they were thorns in the flesh of the Liberal and later the Labor Party.

The former Deputy Prime Minister of the Labor Government, Herbert Morrison, writes in his book, *Government and Parliament*, of how free debate was lost in the House of Commons:

"Although there had been talk about the need to expedite business by curtailing Private Members' rights, it was only in the panic which followed the successful Irish obstruction in the 1880's that the House parted with its long preserved liberties. One of the most far-reaching of these reforms was the closure (that is to say, the motion 'That the Question be now put'). It was the first used by Mr. Speaker Brand, on February 2, 1881, who, in the course of long debate and considerable obstruction, decided to put the question without further debate. (Before the introduction of the closure Members could proceed with debate indefinitely.) . . . And it was eventually decided that a 3 to 1 majority would be required for a closure in a house of not less than 300 members."

Mr. Morrison goes on to explain that the standing order governing closure in Commons today requires only a simple majority which cannot be less than 100 members.

Before 1911, Lords possessed absolute veto power over Commons. As a result of the rejection of the finance bill of 1909 by the Lords, the Liberal Government of that day appealed to the people and won a majority on the issue. A measure to curb the powers of Lords was offered, and a promise obtained from the King that, should the Lords reject the bill, he would create a sufficient number of peers to insure its passage.

The threat was effective and in 1911 the Parliament Act became law. By it the veto of Lords was curtailed for a period of 2 years for bills passed by the Commons in three successive sessions (whether of the same Parliament or not) and was abolished altogether in respect to appropriations.

The Labor Party in its pre-election platform of 1945 stated:

"We give clear notice that we will not tolerate obstruction of the people's will by the House of Lords."

On October 31, 1947, the Parliament bill was presented to the House of Commons and passed on December 10. It was rejected by the House of Lords on June 9, 1948.

The bill provided that, in the future, such legislation might be passed into law, notwithstanding the rejection of the House of Lords, if (1) it had been passed by the House of Commons in 2 successive sessions, instead of 3 as provided for by the Parliament Act of 1911, and (2) 1 year (instead of 2 years) had elapsed between the date of the first second reading in the House of Commons and the date on which it was passed finally by Commons for a second time.

The bill further restricting the power of Lords was again passed by the Commons on September 21, 1948, and again rejected, September 23, 1948.

The bill was passed for the third time by the Commons on November 14, 1949. It was rejected by the Lords on November 29, but received the royal assent and became law on December 16, 1949, under the terms of the Parliament Act of 1911.

Thus was removed from the Government of Britain a great measure of its stability and strength and the whole world was the loser.

We know the rest and those who have the vision to see beyond the transitory objectives of political advantages should be able to detect the grave danger of this bit of history repeating itself in the United States today.

It is interesting to note in retrospect that the House of Lords—although liquidated in all by name by an unbridled majority in its sister chamber—has clung steadfastly to the principle of freedom of debate. It still has only two standing rules governing debate; that a peer can speak only once on the same motion and debate must be relevant to the question before the House.

Much has been made of the fact that standing rule XXII gives "power" to the individual Senator which those so contend-

ing maintain should be possessed by the majority, right or wrong. Such a view is contrary to the origin of the Senate as the voice of the individual States in the Federal establishment.

There is no escaping the fact that proposals for further limiting debate in the Senate would have the effect of negating the power, the prestige, and the perquisites of the Senator as an individual officeholder and of the Senate as a protective instrumentality of the Federal Government.

The smaller States rightly were given equal representation in the Senate but this influence will be dissipated in direct proportion to the degree of any revision of rule XXII.

During the last quarter of a century we have seen an unending encroachment on the powers of Congress by both the executive and judicial branches. One by one its powers, and the prerogatives of its members, have been dissipated either by delegation or acquiescence.

Congressional powers over the purse, over patronage, over the budget, over trade, over war powers and all other phases of government operation have slipped away or have been greatly reduced.

It is time to reverse this trend and the proper place to start is by refusing to surrender the right of freedom of speech on the floor of the Senate.

No more eloquent defense of the right of the individual Senator to the power which comes through freedom of debate has ever been penned than that written by the distinguished and erudite journalist, William S. White of the New York Times, in his book, *Citadel—the Story of the United States Senate*. It is appropriate that his conclusions be considered here:

"Conscious though one is of the abuse of senatorial power, one glories nevertheless in the circumstances that there is such a place, where big Senators may rise and flourish from small States.

For the Institution protects and expresses that last, true heart of democratic theory, the triumphant distinction and oneness of the individual and of the little State, the infinite variety in each of which is the juice of national life.

It is perhaps often forgotten that the democratic ideal is not all majority; that, indeed, at its most exquisite moments the ideal is not for the majority of all but actually for the minority of one.

"The Senate, therefore, may be seen as a uniquely constitutional place in that it is here, and here alone, outside the courts—to which access is not always easy—that the minority will again and again be defended against the majority's most passionate will.

"This is a large part of the whole meaning of the Institution. Deliberately it puts Rhode Island, in terms of power, on equal footing with Illinois. Deliberately by its tradition and practice of substantially unlimited debate, it rarely closes the door to any idea, however wrong, until all that can possibly be said has been said, and said again. The price sometimes is high. The time killing, sometimes, seems intolerable and dangerous. The license, sometimes, seems endless; but he who silences the cruel and irresponsible man today must first recall that the brave and lonely man may in the same way be silenced tomorrow.

"For illustration, those who denounce the filibuster against, say, the compulsory civil rights program, might recall that the weapon has more than one blade and that today's pleading minority could become tomorrow's arrogant majority. They might recall, too, that the techniques of communication, and with them the drenching power of propaganda, have vastly risen in our time when the gaunt aerials thrust upward all across the land. They might recall that the public is not always right all at once and that it is

perhaps not too bad to have one place in which matters can be examined at leisure, even if a leisure uncomfortably prolonged.

"It is, in the very nature of the Senate, absolutely necessary for the small States to maintain the concept of the minority's veto power, having in mind that it is only within the Institution that his power can be asserted or maintained.

"Where a powerful majority really wants a bill it will find means to have its way, cloture or no cloture."

In considering the implications of "majority rule," one must not lose sight of a few simple facts about the origin and composition of the Senate.

It is impossible to apply to the Senate with any degree of accuracy the principle of popular majority rule as we usually consider it.

The very composition of the United States Senate where all States have an equal vote prevents such an application . . .

Some of the terms of reference to standing rule XXII are both shocking and disturbing not only because they insult the intelligence and integrity of those privileged to serve their States in the Senate but also because of the manner in which they distort facts and ignore history to support partisan ends.

A few choice current examples are that Senate rule XXII—

Must be changed to conform with the challenge of Russian missiles and sputniks. Paralyzes decision in the Senate. Is archaic.

Would have been opposed at the time of the adoption of the Constitution.

Is contrary to the views of the Founding Fathers.

Violates fundamental parliamentary law.

Is at odds with early Senate procedures.

Is not supported by the national interest.

Is not supported by common sense.

Is not supported by history.

Stultifies Congress.

Violates the Constitution.

Is offensive to the dignity of the Senate.

Has destroyed the Senate's deliberative function.

Thwarts discipline in the Senate.

These and many more similar unfounded assertions and puerile implications which could be cited are offensive to the character of every Member of the Senate and to the memory of those now departed who either served under or helped draft standing rule XXII.

I am indignant at the implication that I, or any other Member of the Senate, would consent to serve under, let alone defend, any rule of procedure which could to any degree be as reprehensible and alien to the American concept as opponents of standing rule XXII would picture it to be.

I would point out that the Congress of the United States and our Republic are almost 200 years of age. From 1789, when the first Senate met, until 1917, when Senate rule XXII was adopted, there was absolutely no rule whatever limiting or restricting debate in any way whatsoever. In 1917, when a group of willful men filibustering against President Wilson's desire to arm ships adopted, for the first time, Senate rule XXII, it required two-thirds of the Members of the Senate to close debate.

Here is a country that won its independence less than 200 years ago, and in that relatively short period of time has become the guardian and protector of the world's liberties, the greatest power that the world has ever known, with the greatest degree of freedom to our citizens that mankind has ever known, with the highest standard of liv-

ing that has ever been experienced on the face of the earth. So why should some of my colleagues want to argue against success? Something that has benefited our country and contributed to its greatness so long should not be stricken down lightly.

I continue to quote from my report:

Now is no time to forget the lessons of history. Before tearing down a chamber that has served the United States and its people well, Senators should search for truth by asking themselves:

Are we so blind as not to realize that if free debate perishes in the Senate our leaders in the future will be rising like jacks-in-the-box to move the previous question?

Do we not know that this evil thing will become the weapon of the majority party or coalition to be resorted to habitually in stifling all opposition?

Do we not know that when such an event comes to pass minority thought and opinion will lie prostrate and defenseless against the tyrannical abuses of any transient majority that might for the moment occupy the seats of the Senate?

Have we forgotten that everyone at one time or another, belongs to a minority?

Have we lost sight of the unchanging truth that unbridled majority sway without proper restraint is mob rule?

Are our memories so short that we have forgotten the maxim that free government destroying dissenting opinion, thereby destroys itself?

Have we forgotten that in such circumstances dictatorship of one form or another steps into the vacuum thus created to wrest all rights from the people, minorities and majorities alike?

The alternative to unlimited debate is gag rule, which was aptly defined by the late Senator Reed as "the last resort of the legislative scoundrel."

The issue at stake here is far more fundamental than any mere question of legislation. It is as basic as our freedom itself. Gag rule, and its stepchild, censorship, are abhorrent to and incompatible with our American heritage.

The Senate has proved itself worthy of the rules by which it now operates.

Commonsense and the Nation's survival dictate that our time-honored procedures should not be subjected to whimsical tampering on the slightest provocation.

It is essential to our interests as a nation that we keep vital and inviolate our system of checks and balances.

With unlimited debate in the United States Senate, all Americans have the assurance that no act jeopardizing their rights will ever be proposed without some Member of the Senate having the opportunity to resist it and to warn the Nation of its consequences.

Franklin D. Roosevelt, while Governor of New York, foresaw just such dangers to the Republic, in a radio address on States rights, delivered March 2, 1930, when he warned:

"The moment a mere numerical superiority by either States or voters in this country proceeds to ignore the needs and desires of the minority, and, for their own selfish purposes or advancement, hamper or oppress that minority or debar them in any way from equal privileges and equal rights—that moment will mark the failure of our constitutional system."

His warning, valid then, is even more so today.

It is a concern Americans share fullest in this hour.

It is a concern which the Senate can ignore only at its own peril.

It is a concern which the Senate can allay only by upholding standing rule XXII as written.

Mr. President, at one time the Georgia

House of Representatives had 205 members. We once had a speaker of the house there who was the most skilled parliamentarian that I think I ever knew in a State legislative body.

From time to time, criticism was made about utilizing steamroller methods in the Georgia Legislature. I assume that criticism has been leveled from time to time at all legislative bodies, particularly State legislatures, which usually have limitations on debate.

This particular speaker of the house and parliamentarian, when responding to a question as to what a steamroller was, said, "A steamroller is 103 votes plus me."

I hope the time never arises in the U.S. Senate when anyone can refer to steamrollers in this legislative body. They cannot at this time, because there can be no steamroller in the U.S. Senate as long as we have 34 Members who have the courage to stand on their feet, articulate their objections to a bill, and alert the country to the dangers in a proposed piece of legislation.

But if we start tampering with and whittling away at the rules of the Senate, first from a two-thirds majority to 60 percent, if that time comes, as the night follows the day, then it will be 55 percent, and then 51 percent; and if that time ever comes, Mr. President, the steamroller in the U.S. Senate will then become 51 Senators plus the Vice President of the United States.

God forbid that such a time will ever come to the U.S. Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONGRESS—THE FIRST BRANCH OF GOVERNMENT

Mr. CHURCH. Mr. President, in the words of the old song "It seems that we have stood and talked like this before."

Now, I heed to reasoned and informed discussion in the Senate—regardless of political affiliation and regardless of political tendencies—we all believe in the tradition of thorough, exhaustive, and informed discussion.

I emphasize "exhaustive"—not "exhausting." I make this distinction, Mr. President, because it is my belief—shared by at least a constitutional majority of this very Senate—that the cloture rule, rule XXII, has been the stick with which intransigent minorities have beaten to legislative death the efforts of large majorities to work their will.

I have said once before, on a similar occasion, that God in all His omniscience could not devise a new argument favoring or opposing a change in the existing cloture rule. Yet, the old arguments are repeated endlessly. I respect the intensely held views of the minority in this matter. I have listened carefully over the years to their rationale for fiercely defending the cloture rule in its present form.

But, Mr. President, the words of wisdom in our Bibles, Korans, and Torahs take far less time to read. Wordiness is no certain guide to wisdom.

We justifiably refer to the Constitution of the United States as the finest political document that ever came from the hands of men. Yet the Constitution of the United States—embodying the organic law on our Nation—is a product of a Constitutional Convention which lasted only 4 months—May 14, the convening date, to September 17 in 1787, the date of its adoption by the delegates. Now if there had been a rule XXII in that convention, the delegates would still be talking, trying to reconcile the Virginia and the New Jersey plans for determining representation in a proposed U.S. Congress. But blessedly, there was no rule XXII to block the Constitutional Convention delegates in the fulfillment of their responsibilities. The delegates argued and cajoled and snapped at each other in the summer heat, but the document emerged within 127 days. Today, March 8 in the year 1971, is the 43d day of lapsed time during which a filibuster has been underway to block even the taking-up of the resolution, Senate Resolution 9, for a change in cloture.

During all that time, not one offer—not a single one—has come from the other side, the opponents of a change in rule XXII, in an effort to bridge the differences. Indeed, one opponent of change suggested that the three-fifths cloture formula be altered into an even more insuperable barrier—that the formula be increased to 70 percent.

Now, Mr. President, I have a second point I wish to make. During this debate there have been numerous learned references to the "Federalist Papers"—another remarkable document written by those who supported the Federal Constitution as a means of welding the 13 States into one Nation. I should like to quote some passages from the "Federalist Papers" in respect to the relative merits of minority as against majority rule.

First, I quote from paper No. 22 ascribed to Alexander Hamilton, who was a nation-builder not a nay-sayer.

Addressing himself to the proposals for representation in the two Houses of the Congress, Hamilton referred to:

That fundamental maxim of republican government which required that the sense of the majority should prevail.

To those who argued that in all cases the several States should be equally represented in both Houses of the Congress, Hamilton wrote:

But this kind of logical legerdemain will never counteract the plain suggestions of justice and common-sense. It may happen that this majority of states is a small minority of the people of America; and two-thirds of the people will not long be persuaded upon the credit of artificial distinctions and syllogistic subtleties to submit their interests to the management and disposal of *one-third*.

In this connection, Hamilton was pointing out that New Hampshire, Rhode Island, New Jersey, Delaware, Georgia, South Carolina, and Maryland were a majority of the whole number of the

States, but they did not contain one-third of the people.

Later on in this same paper, we find Hamilton discussing our old friend, the two-thirds formula. There had been advanced the proposition that agreement of nine of the 13 States should be obtained in order to give consent to important resolutions. Hamilton, when the occasion demanded, could speak bluntly. About this proposition, he said:

To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser number.

Hamilton pointed to the ridiculous situation in the Polish Diet at the time, wherein a single veto was sufficient to put a stop to all its movements.

Hamilton explained:

A veto by a small minority is one of those refinements which, in practice, has an effect the reverse of what is expected from it in theory. The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the government and to substitute the pleasure, caprice or artifices of (a minority) to the regular deliberations and decisions of a respectable majority.

Mr. President, Hamilton and the other Founding Fathers had a greater faith in the collective wisdom of the enfranchised voters than do we here today. They had suffered from minorities of one—the kings of England—and the minorities of a few—the counselors of kings, accountable to no one and propelled by vanity and self-interest.

In Federalist Paper No. 8, Hamilton again pressed the cause of a "respectable majority," which the opponents of a cloture change scoff at. Hamilton is discussing the number of Members of the Houses of Congress who should be present in order to conduct legislative business. It had been argued that more than a majority should be required in some, if not all, occasions, for a decision.

Hamilton wrote:

That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interest, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice and the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule; the power would be transferred to the minority.

To accept such a situation, Hamilton wisely said, would be:

A practice subversive of all the principles of order and regular government . . .

To accept the argument of the opposition, Mr. President, is to court disorder and the existence of an enfeebled legislative assembly—a situation in which we have frequently found ourselves.

The opponents of a cloture change keep pointing to the logic of their position. But I do think that they shrink

from the full logic of their position. They insist upon a two-thirds cloture rule before discussion may be ended on any legislative matter.

But why stop there? Why not insist on a two-thirds vote in order to pass the legislation itself?

After all, Mr. President, we once exposed our sons to war on a one-vote margin.

In August 1941, the House of Representatives agreed to an extension of the expiring Selective Service Act by one vote—203 to 202.

We know that the Senate failed to convict a President, Andrew Johnson, by a margin of one vote. On two occasions, a single vote carried the Presidency for John Quincy Adams and for Rutherford Hayes.

In earlier times, one vote cost King Charles the First of England his head.

If the opponents of changing rule XXII really believed in the efficacy of the two-thirds principle, they should advocate it for all important legislation, not just constitutional amendments and treaties, as the Constitution itself provides.

We need—indeed, we are committed in the Senate to extensive debate. But the dubious anecdote that the Senate is the saucer into which the hot legislation of the House is to be cooled, means no more than cooled.

Cooled coffee is suitable to drink: Cold coffee must be discarded.

Discarded not cooled, as the history of the past half-century demonstrates, has been the record, for rule XXII has proved to be all but an insuperable barrier to the enactment of legislation, even though in many cases a large majority in the Senate desired to support the legislation that this rule has blocked.

At this time, I wish to make an additional point, Mr. President.

I was somewhat distressed last week on the occasion of the third cloture vote when the ranks of the opposition suggested that this effort to change rule XXII is a biennial charade. Indeed, the distinguished Senator from Alabama (Mr. ALLEN) suggested that the time we spend discussing a rules change allows many Senators to extend their recess period for an additional 30 days.

Now, I acknowledge the fiercely held views of the distinguished Senator from Alabama and his like-minded colleagues. But I insist that the views of the majority of Senators who support a rules change are equally sincere—not expressed as part of some charade or empty gesture to occupy time at the commencement of a new session.

That really is not a worthy criticism about those of us who feel that the Senate would be better safeguarded against the uncertainties of the future and that the protection of our very rules and procedures would be better insured if we were to make this modest change in the present cloture rule. We are, after all, as sincere in our belief as those who oppose the change.

Finally, Mr. President, I suggest that no Senator should be under the impression that proposals for a cloture change are matters either new or unanalyzed,

that this proposal is something unexpectedly placed before us. It has all been said before. The cloture question over the years is the most thoroughly discussed topic ever placed before the Senate. Every opportunity has been extended this year, as on past occasions, for Senators to express themselves as to the concept of cloture in general and as to specific proposals for changes in the rule.

In this connection, I do wish to point out that cloture itself has seldom been sought hastily or impulsively. There were four successful cloture votes during the 1960's. In each case, cloture was not sought until the measures in question had been discussed for periods ranging from 24 days to 8 weeks. Unsuccessful cloture attempts have likewise been customarily sought only after debate of correspondingly lengthy periods.

The Library of Congress has done a detailed analysis of all measures on which cloture petitions have been filed under rule XXII.

This data shows that only on three other measures has the Senate met as many times as it has on Senate Resolution 9, this year's basic proposal to change the cloture rule. The three are the treaty ratification in 1919 on which the Senate held 55 meetings; the 1922 Forney-McCumber tariff bill on which 60 meetings were held; and the 1964 Civil Rights Act on which there were 55 meetings.

It is quite evident, then, that this subject of cloture does not lack for sufficient discussion.

Therefore, Mr. President, I urge each Senator to translate his affections for the Senate into a willingness to support those measures which will make it work more effectively for the American people and into a willingness to permit the Senate to proceed to the consideration of Senate Resolution 9. There will be additional opportunity to consider the proposal and such amendments to it as may be advanced by any Senator or any combination of Senators. And if cloture is voted tomorrow, it will still be open, if no suitable compromise can be reached, for Senators to oppose another effort to limit debate on final consideration.

Nothing would be lost, on either side, if the Senate were to permit a limitation of debate on the motion to proceed to the consideration of the resolution.

No one would be prejudiced, for it would still be necessary, in order to reach a final vote on the merits, to cut off debate a second time.

Government by paralysis will not work in the demanding decade of the 1970's.

Two Vice Presidents—one a Democrat and one a Republican—have in recent years recognized the deficiency that rule XXII contains. Each man, ruling from the chair of the presiding officer, has encouraged a change in this rule.

An intractable insistence upon retaining the cloture rule in its present form is a way of telling the American people that we in this Senate regard ourselves as being under siege; that we are permitting ourselves to remain blinded by attitudes which—whatever their legiti-

macy in the past—have long since been rendered obsolete.

To persist in this intransigence is to affirm that the supreme legislative assembly in our Nation wishes to remain insulated, in the utmost degree, from the most pressing problems afflicting our country. It is as if we actually covet the thick masonry walls that rise around us.

Such an attitude reflects a negatively charged vision of our duties and responsibilities. It bodes ill for the future reputation of the Senate. Others may disagree, but a recent Harris poll I had printed in the CONGRESSIONAL RECORD on March 2, 1971, shows that Americans do in fact have an unfavorable impression of the Congress, except, as I pointed out at the time, when we have acted affirmatively, when we in Congress have proceeded to move, to approve affirmative measures designed to deal with controversial problems.

The last time that happened in any marked degree was in 1964 and 1965. Interestingly enough, it was in those years that the American people gave Congress its highest marks; and the reputation of Congress has been in decline ever since.

Obstructionism for the sake of obstructionism can only further diminish the reputation of the Senate in the eyes of the people.

The cloture formula of two-thirds stands athwart our legislative pathways as a virtually impassable barrier to the carrying out of the public business, wherever the subject matter is highly controversial and requires, for its solution, affirmative legislative action. If a modest measure that would permit relaxation of the existing cloture rule to enable three-fifths of the Senators voting, rather than the present two-thirds, to limit debate cannot even be brought before the Senate for a vote, then I fear the U.S. Senate is doomed to play an essentially negative role in the future.

It will be foreclosed from exercising an imaginative and innovative role in our public life. If anyone doubts it, I would ask him to consider what chance any proposal now pending in the Senate—that is, any proposal of a momentous character—has of passing this body, given the present cloture rule.

For example—let wavering liberals take notice—an amendment was proposed and voted upon last year, when it was clear no majority could be marshaled for its support, known as the McGovern-Hatfield amendment, the purpose of which was to fix a date for completing the withdrawal of American forces from the war in Southeast Asia. What chance has that amendment of passing the Senate, given the present cloture rule? I can foresee events in Southeast Asia that might move a majority of this body to favor the passage of that amendment. But I cannot foresee any circumstances that would ever reduce to fewer than one-third the Senators who would oppose that amendment.

Rule XXII, as it presently stands, prevents any affirmative action of the kind and character that would inspire a de-

termined opposition to talk it to death. Thus we are cast in a negative role in the Senate. It is a role fashioned by a siege mentality that sees the Senate as a citadel to hold back the forces of change.

It is a limiting role. We cannot fulfill the great potential that might be ours if we remain manacled to a rule which so severely restricts our scope for legislative action.

So I would hope, Mr. President, that we might at least be permitted to proceed to the consideration, on the merits, of so modest a proposal to change the cloture rule. I would hope that we could somehow overcome this obsession of ours, this concept of the Senate as a citadel, this siege mentality.

How much greater our role might be if we conceived of the Senate as the legislative cockpit for initiative in our public life. That would assure the American people that we are mindful of the necessity to find solutions to the problems that have come to plague our society.

We will not find them through Government by paralysis; it will not happen. One day we will become bogged down here, just as we were 50 years ago, and our incapacity to act will so enrage the country that the best of our procedures will give away to the tide of public indignation. And those who fancied they were safeguarding the Senate will, ironically, become the very ones who contributed most to its downfall.

I would hope we could act tomorrow in such a way as to lay the groundwork for making Congress truly the first branch of Government as our forefathers intended it should be.

Mr. President, recently the Hartford Times editorialized in favor of a change in the cloture rule. It concluded by declaring:

If we can not trust a three-fifths majority in the United States Senate, the American system isn't going to work.

I ask unanimous consent, Mr. President, that the text of this fine editorial be printed in the RECORD at this point in my remarks.

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

IF WE CANNOT TRUST A THREE-FIFTHS
MAJORITY

There will be another effort on Tuesday to tighten the limit on Senate filibusters. It will be a final vote for this year on the proposal to reduce the two-thirds rule on ending debate to a three-fifths rule. This is a reasonable change, and good government would benefit from its adoption.

The arrangement which allows one third of the present and voting Senators to block any legislation by filibuster is not exactly hallowed by American tradition. It was installed in 1917 and used first in an attempt to block a vote on the Treaty of Versailles.

Principally, the filibuster has been used to fight off civil rights legislation. For decade after decade it was used to prevent the federal government from passing laws against lynching. The filibuster rule was the great strategic weapon for protecting poll tax laws and the impossible literacy tests that kept to much of black America from achieving full citizenship in the South.

Rule 22, as it is known in the Senate, has been used to fight fair employment, open

housing, and home rule for the District of Columbia. A glance at the record of its use during the past half century demonstrates beyond all question that this is the refuge for the worst of our national impulses.

It can be argued that Rule 22 is a valuable part of our checks-and-balances system. It can be claimed, as by Senator James Buckley of New York, that it saves the nation from a "mindless majoritarianism."

But "majoritarianism" is, indeed, the political rule in the American system. A majority is clearly intended to prevail in most situations, even a very narrow majority. When it comes to elections—like the three-way contest won by Senator Buckley last year with 38 per cent of the vote—the Constitution doesn't even insist that the winner have a majority.

The House of Representatives has always managed very well without a filibuster rule. When a majority in the House decides to end debate, the question on the floor can be put to a vote.

The Senate got along that way, too, for the first 128 years of its existence. And Rule 22 would have been abolished long ago if the very existence of the rule makes it impossible to call a vote on the matter.

There are some who defend the filibuster on the grounds that it can be used for good purposes as well as for bad ones. It was used last December, for instance, to block passage of an impossible lump of good welfare legislation and bad trade proposals. But the record runs strongly against the filibuster technique, which is a denial of fair procedure and an open, shameless squandering of valuable time and effort.

In the two tests on Rule 22 this year, most of New England's senators have voted for modification—all except Mr. Weicker of Connecticut and Mr. Cotton of New Hampshire. In the next test it would be encouraging to see them join their colleagues in support of the three-fifths proposal. If we cannot trust a three-fifths majority in the United Senate, the American system isn't going to work.

U.S. FOREIGN POLICY ON ISRAEL

Mr. **RIBICOFF**. Mr. President, the United States is hovering on the brink of committing a tragic foreign policy blunder.

The State Department, indirectly through the Jarring talks and directly through its own channels, is advocating Israel's total withdrawal back to the pre-June 1967 borders. In return, Israel is being offered only vague promises by the Arabs and uncertain assurances by the U.N. and the United States. However laudable the ultimate goal of our policymakers, the results of their present efforts will not, and cannot, bring lasting peace to the Middle East.

Israel's return to the old vulnerable armistice lines can only increase the probability of another major outbreak of hostilities—with all the consequences this would have for world peace. Strict implementation of the Rogers plan of December 1969 as the basis for an Arab-Israel settlement is an open invitation for continuing conflict.

The recent display of reasonableness by Egypt, its first since 1948, has created such euphoria over at the State Department that vital American interests in the Middle East are being ignored. In exchange for what amounts to heads I win, tails you lose proposals by Egypt, our State Department is trying to persuade Israel to pledge in advance of negotiations that she will surrender the key to

any lasting negotiated settlement—the very territories she now holds. Once Israel does this there will be no incentive for any concessions by the Arabs to guarantee Israel's future security.

The current themes of "insubstantial alterations" and "total withdrawal" have the same ring as "peace in our time." Again the world is witnessing the sacrifice of the security of a small, independent nation in a shortsighted attempt to appease an aggressor and avoid conflict. The present American position on boundaries is an unnecessary retreat from our previous insistence on defensible borders for Israel. This requirement of secure and recognized boundaries was included in the November 1967 Security Council resolution—the basic U.N. statement on the subject—for good reason.

For Israel now to be forced by the United States to repeat the fiasco of the 1957 Sinai withdrawal is not only the height of irony—but the height of folly. It would be more desirable and logical for the United States to press for the withdrawal of the more than 15,000 Soviet troops from Egypt, rather than a complete pullback of Israeli forces. The United States is now in effect seeking to accomplish what lavish Soviet assistance and Egypt's "war of attrition" failed to do.

A return by Israel to its June 4, 1967, borders before an agreement between the parties involved is a sure-fire formula for instant crises. It means that any Arab military threat must again be met with a high level of mobilization by Israel. Because Israel's Army is essentially a citizen force, full mobilization can be sustained for only a few days. On the other hand, if Israel is permitted to negotiate the retention of certain strategically placed points, she will have much greater flexibility of response. Within her old borders, an offensive military strategy was the only rational alternative left to Israel. This strategy was dictated by her geography, and great numerical inferiority. Giving Israel greater security will abate the crisis atmosphere in any future crunch, and thereby lessen the chances of a United States-Soviet confrontation.

A resurrection of the old borders will serve as a constant temptation for the Soviet-supported Arab armies to launch their "final battle of destiny." Once again, Tel-Aviv would be only 30 miles away, almost all of Israel would be within artillery range, and Israel's vulnerable waist would be only 10 miles wide at one point. In addition, without a demilitarized Sinai and an Israel presence in Sharm-el-Sheik, a blockade of the vital Straits of Tiran might again become an irresistible impulse for an Egyptian leader with internal problems.

A settlement imposed on Israel by outsiders would actually place Israel in greater peril than before the June 1967 war, because of the massive and unprecedented direct Soviet military involvement in both Egypt and Syria. Only the creation of defensible borders offers some realistic hope that hostilities will not resume as soon as the Arabs feel they are ready for another round.

In their haste to gain Egyptian continuation of the cease-fire, our policymakers have been too quick to rely on Arab words while choosing to ignore Israel's deeds, and her willingness to surrender most of the territories she now holds as part of a real peace. Sadat's threats to terminate the cease-fire and resume hostilities are nonsense. His Russian masters obviously do not now want to be dragged into a serious confrontation with our own country, and this was obviously made clear to Sadat in Moscow last week. The Russians know full well that their Egyptian clients are still in no shape for any military encounter with Israel. Based on reports of the comic-opera quality of the latest Egyptian military maneuvers, present Soviet reticence is based on a hard-headed appraisal of the military skills of the Egyptian forces, rather than any desire for a genuine peace settlement.

The Soviet hand can easily be detected in the latest Egyptian diplomatic maneuverings which have so beguiled our State Department. Ignoring its diplomatic debacle of last August when the Egyptians with Soviet help brazenly violated the cease-fire agreement, the State Department is once more ready to leap before it looks. Unless the current Middle East peace fever is treated with strong doses of reality, the State Department will again be left with egg a la Russe on its face. Only now, the stakes involved are greater than the loss of Israel air superiority over the Suez Canal area, or even the future security of 2½ million Israelis. At stake now are vital, long-term interests of the United States. Some blunt facts of life dictate a change in direction from the course now being pursued:

First, the Soviet Union and not the United States will be the hero in the Arab eyes if Israel is pressured into abandoning all of the territories captured in the six-day war in exchange for nothing more than vague assurances.

Second, the Arab rulers who arrogantly demand total and immediate Israeli withdrawal in return for their future recognition of Israel's right to exist, have yet to state publicly they can live in peace with Israel, and have normal relations. One indication of this is that President Sadat, like his predecessor, speaks in one voice for Western consumption, and in a much different voice to his own people—and to Palestinian terrorist leaders.

Third, given the instability of the Arab dictatorial regimes, any purely paper agreement entered into by an existing government is likely to be reinterpreted or scrapped the next day. Syria has averaged almost one coup a year since World War II. Egypt's Sadat has by no means consolidated his own rule, and must rely heavily on the backing of his Soviet masters to keep restive elements from toppling him. An assassin's bullet aimed at King Hussein could change Jordan's political complexion literally overnight.

Finally, U.N. or multipower guarantees have notably failed to keep the peace in the past. Vietnam, Laos, and the Middle East all furnish examples of this. Secu-

rity Council or Big Four assurances of a Middle East settlement are no substitutes for direct negotiations and mutual expressions of peaceful intentions.

American retreat from the concept of defensible borders for Israel at this critical juncture is a clear signal to the Soviet Union that the United States is seeking an easy way out of the current impasse. More ominously this is an unmistakable indication that the United States is more unwilling to protect its own vital economic, strategic and political interests in this region. This reluctance has to have serious implications for our NATO allies—and for our commitments elsewhere.

Israel's strategic value to the United States is being too easily overlooked. Israel's strength deterred massive Syrian involvement in the Jordanian crisis. It also enables the remaining pro-Western Arab governments to survive in Jordan, Lebanon, and Saudi-Arabia. Most importantly, Israel is blocking Soviet domination of the eastern Mediterranean and its expansion into the Indian Ocean and Africa. Israel's victory over the combined Arab armies was a staggering defeat for the Soviet Union.

Today, Israel's proven fighting abilities and determination not to be bullied, lessens Soviet mischief-making potential in the entire Mediterranean area.

It makes little sense to squander this asset in vain attempts to curry favor with unreliable Arab dictatorships. This does not mean we should not seek to improve our relations with all the Arab countries. But this should not be at the expense of our overriding interests.

It is also puzzling why our country appears to be in such unseemly haste to reopen the Suez Canal. Opening the canal is undoubtedly a top priority for the Soviet Union. It now has problems in supplying North Vietnam and in making more efficient use of its naval power on a global basis. By comparison, our own interest in having the canal in operation is marginal. In fact, once it is opened and world commerce makes the necessary adjustments again, we will have given the Soviets a trump card—threatened closure of the canal again.

While there is reason to be encouraged by the first Egyptian hints that they might sign a peace agreement with Israel, even their tentative expressions of peaceful intent are clouded by contradictions. There is ample reason to be disturbed by what has not been stated. In Egypt's earlier reply to Ambassador Jarling there was no mention by Egypt that she would specifically permit Israel to use the Suez Canal if it was reopened thus making it clear that Egypt intended to reserve her rights of belligerency under the Constantinople Treaty. Egypt's next "magnanimous" offer was to acknowledge Israel's rights of passage through international waterways, but this was made conditional on prior total Israeli withdrawal and a satisfactory solution of the Arab refugee problem. To Egypt, "satisfactory" means Israel's absorption of all those Arab refugees who wish to return—which is another way of insuring the destruction of Israel.

The one-sided exchanges of tentative Egyptian statements of intent for drastic Israel concessions to date are ludicrous on their face. They are certainly not in keeping with the "even-handed" policy we are supposed to be pursuing. American support for these Egyptian-Soviet positions on total withdrawal would be equally preposterous if this, in fact, was not the goal of our present policies.

By seeking a "quickie" settlement at the expense of Israel's basic security interests, we will not be moving closer to peace, but helping the Soviet Union to consolidate its gains in the Middle East. Well-meaning men who earnestly desire peaceful solutions are easy prey for unscrupulous men who exploit this desire for tranquility. American insistence on an Israel pledge of total withdrawal in advance of a settlement is both unwise and unnecessary. If "peace is too important to be left to the generals"—then certainly peace in the Middle East is too crucial to be left to the Arabists in the State Department.

I implore the President to undertake an urgent review of our current Middle East policies before irreparable damage is done to American interests.

Only the President's direct and immediate intervention can arrest the dangerous drift of American policy toward forcing Israel to submit to a disastrous settlement without adequate guarantees.

Given the nature of the relationship which must necessarily exist between Israel and our own country, any "suggestion" by the United States to Israel in the current diplomatic context is tantamount to a command.

While we may officially claim we are against imposing a settlement, Israel cannot defy the wishes of the United States for long. But if Israel's survival must depend on the wisdom and foresight of our current policies, we must also take into account how much we can depend on Israel, and how little we should rely on vague Arab assurances backed by Russian promises.

Mr. BAYH. Mr. President, I compliment our distinguished colleague from Connecticut (Mr. RIBICOFF) for the perceptive statement he has just made on the problem which exists at this very moment in the Middle East.

Two salient concerns expressed by the Senator from Connecticut are shared by the Senator from Indiana. I have just returned from a visit to the Middle East. I am impressed with the perceptive analysis of the situation as outlined by the Senator from Connecticut. I had the opportunity to visit most of the trouble spots once again, and to talk with a number of high-ranking Israeli officials. I think I came back a bit more aware of the current dimensions of the crisis than I had been earlier, inasmuch as I had not been to Israel since shortly following the Six-Day War in 1967.

The two points that most impressed me were, first, the position that it appears this country is increasingly getting itself into of urging the Israelis to accept a total and complete withdrawal from the present occupied territories in exchange for only nebulous and uncertain guarantees from the Big Four parties.

What is in the best interests of the United States? I make no apologies for my belief that what we do in the Middle East, as well as elsewhere, should be based on this criterion and this criterion alone. What is in the best interests of the United States of America? But the one indispensable ingredient for which we should be striving is not a withdrawal, not an opening of the canal, not a temporary settlement. But what we should be after is a peace treaty, a permanent settlement of all the grievances that exist in the area, not a temporary hiatus.

In my judgment, we should encourage the parties to sit down, and we should urge them to do so and not get ourselves involved in such a way that we have prejudged the situation prior to any meaningful negotiation. There have been no meaningful negotiations to date, and in my judgment the problem is not going to be solved unless there are such talks.

I might make one additional reference to the withdrawal issue. If what we are after is a permanent peace treaty, and if what we are after are secure boundaries, it should be recognized that we are not going to have a permanent peace treaty until all the parties feel secure in their ability to protect themselves from aggression—Israelis and Arabs alike. But there is a dramatic inconsistency, in the judgment of the Senator from Indiana, between total withdrawal, and secure boundaries.

There are some places that militarily are absolutely critical if we look at the history of events in that area. Sharm-el-Sheikh and the Golan Heights, for example, are of significant military consequence to Israel. The Senator from Indiana does not have any magic formula here. But to suggest that we should put Sharm-el-Sheikh and the Golan Heights back into the same circumstances, the same conditions that existed before the 1967 war, is just to invite another confrontation.

What should be done, what disposition should be made of those particular areas and the other sensitive areas, I think, is a matter of negotiation between the parties. But for the United States to get itself in a position where we decide in advance what should be done—and the formula we suggest is going back to the conditions which precipitated the 1967 war—I think is folly.

Point No. 2 of the Senator from Connecticut was his view of the suggestion made by President Sadat that the Suez Canal be opened. I happened to be addressing a convocation, a joint student and faculty meeting, in Haifa, at the Technion Institute, when this suggestion first was made. My immediate reaction was, as it still is, that our policy should be that we want the Suez Canal and the Gulf of Aqaba—we want all international waterways—made truly international.

But when we read the full Sadat statement, little guarantee is actually made by Egypt. When this was first published by the press, it seemed Sadat was calling for that partial withdrawal of the Israelis from the Sinai in exchange for

opening the Suez Canal. But that is not what the full statement says.

The total statement says, on the one hand, "We are going to consider opening the Suez Canal," and, on the other, we want a partial withdrawal and a solution of the refuge problem.

In those few words we have the crux of the problems in the entire area that have been of concern and dispute for generations.

The United States would like to have the Suez Canal opened as an international waterway. There can be no question, too, that the Soviet Union is much more anxious to have it opened than we are. In my judgment, just from the standpoint of negotiating—and I think the Senator from Connecticut hit this and expressed it well—if we do not use the Suez Canal as a bargaining tool to try to get the Russians to insist that the Egyptians make a greater good-faith effort to negotiate, I feel that we are giving away something for nothing. The opening of the canal is the one thing the Soviet Union would like to see happen more than anything else in the area. I think we should insist that opening the Suez Canal should be a part of a total settlement. It should be part of a permanent peace settlement, not just a temporary step.

Another word or two in addition to these two references to the Senator from Connecticut: Let me reiterate what I said a moment ago, that I think a settlement in the Middle East can only be a real and permanent settlement if it is a settlement participated in and agreed to by the parties involved. We must recognize that there are limits beyond which the so-called big powers cannot make a significant contribution to the settlement of this controversy.

First, I think the Big Four powers can indeed urge the parties in the area to negotiate in good faith. But to the degree the United States become committed to supporting the contentions of one side—as apparently is increasingly the case—we are damaging our credibility to try to persuade both sides to negotiate in good faith.

Second, I think the major parties can have a significant role to play in enforcing any agreement that is agreed upon by the parties, enforcing the agreement after it has been made by the parties.

Third, I think we can play a role in trying to balance the military situation there. I hope we can convince the Russians that it is folly for us to continue with the arms escalation.

In my judgment, much as I dislike to make this assessment, my belief is that we cannot sit idly by and let the Russians imbalance the military situation to the point that an outbreak of hostilities is increased, not lessened. I think we must convince the Russians that it is in our national interest not to permit another outbreak of hostilities in the Middle East. It seems to me that we were so obsessed with Southeast Asia and Vietnam that we forgot that what goes on in the Middle East is of much more consequence to our basic national interest than what goes on in Southeast Asia.

I think that now the Russians have the message, but I think it is important for us to continue to let them know that we are not going to sit idly by and let any big power or group of powers destroy one of the states which exists in that part of the world.

I yield the floor.

Mr. JAVITS. I have stayed and listened to the Senator's views with very great interest. What I should like to know from the Senator is this: Does he feel that, as far as the United States has gone now—and I realize that he sees certain trends—it has as yet sought to exercise, as the lawyers say, undue influence on Israel in respect of a settlement which would be dangerous to Israel's future security, but in which her sheer exigencies might make her yield, notwithstanding the peril which would be created for her?

Mr. BAYH. I appreciate the question of the Senator from New York.

From what has been made public up to this moment, I think that our country's position has been, to my knowledge, to walk that thin line in which it does not have a client. I am concerned about some overtures that have been made privately to Egypt, which have been brought to my attention. I hope that when all this comes to light, my information will be erroneous. For us to get ourselves in a position where we take away some of the bargaining cards of one side or the other, will lessen the chance that they will sit down at the negotiating table. I am very much aware that we are close to having done that. I feel, sometimes, that we are so big and so powerful we think we can solve all problems. If we should learn anything from the history of the confrontation there, it is that we should not settle finally with a peace treaty unless the parties themselves agree to it. The United States and Russia can temporarily settle it, as the United States did in 1956; but if we do not go to the core of the problem and solve it at the level of letting the parties decide, we are asking for trouble later on.

Mr. JAVITS. I thank my colleague. Would my colleague agree with me, in this particular case, that as it is Israel, which will have to bear the brunt of that eruption in the Middle East, though we do run the danger, we certainly had better not fail to take comfort from the fact that if they are willing to stand it and face the dangers, that represents a real inducement to us with respect to their exigencies and their needs for security, as they see them.

Mr. BAYH. Yes. I concur. I do not buy the effort of some to equate South Vietnam and the Middle East. First of all, as I said earlier, the Middle East is much more in our total national interest than South Vietnam. Second, if we look at the ability of the Israelis to defend themselves and the absolute lack of need for any advisers, technicians, or combat troops in the effort of that small nation to defend itself, we have an entirely different equation.

I feel strongly about the need for us to maintain clean hands and not take

away some of the bargaining chips from the Israelis. I am sure that neither they, nor the Arabs, are going to be able to get a settlement that will be all they want; but the chance of that being the result of negotiations will be significantly enhanced if we do not position ourselves on one side or the other before the negotiations.

Now, it should be pointed out there have not been any negotiations. Gunnar Jarring has been diligently running back and forth, but so far as I have been able to interpret it, I have not seen any results of a meaningful dialog, the kind that would bear fruit as of yet, although we seem to be close to having that happen.

Mr. JAVITS. I agree with the Senator. I feel right now that the Russians are trading big on the desire to avoid an eruption. They think that in this analogy, the eyeball-to-eyeball negotiations, we will give very quickly. I believe what the Senator has said. I also heard what the Senator from Connecticut (Mr. RIBICOFF) said today. I think these are all valuable. It supports and enlarges the feeling expressed by the President that we will not impose a settlement.

Mr. BAYH. If the Senator will yield for a question, because he has been very kind to help in this colloquy, I made a statement a moment ago that when we are on the scene, as the Senator from New York has been, there seems to be a rather dramatic inconsistency between total withdrawal to the status of all territories prior to the 1967 war on the one hand and secure boundaries on the other. If we are looking for a permanent settlement, certainly we are bound to seek as the fundamental ingredient secure boundaries. Does the Senator from New York make any assessment close to that judgment, or would he care to comment on that?

Mr. JAVITS. Yes; I think secure boundaries mean boundaries which are based upon what has been learned from the events that preceded the 1967 Six-Day War. At that time, a number of things were learned. One, that Egypt did not regard the Sinai Desert as a mutually acceptable demilitarized buffer. President Nasser blew the whistle, and the United Nations forces, upon which there had been so much reliance, simply faded away; then, he moved in massive armored forces. Second, that the general acceptance which Secretary of State Dulles thought he had gotten accepted—that Israel should have an assured exit and entry to its port of Elath, through the Strait of Tiran. We found that was not true. One fine day President Nasser declared that the Straits of Tiran were closed to Israel. The world powers failed to make "free passage" good even though the United States tried to enlist a multinational force to break the blockade of Tiran.

In addition, Egypt does not own the Gaza strip, but merely occupied it in the 1948-49 fighting. There is some historical question about the Sinai itself. The simplistic approach of "get Israel out of everything which belongs to Egypt" is just a slogan, to substitute for reason and

to substitute for negotiation of the areas of danger. I am not even speaking of the Golan Heights, or the west bank, and the very knotty problem of Jerusalem.

For many years I have been deeply interested in this whole problem. I hasten to add, obviously, we will not be guided by what the internal politics of Israel may compel upon a democratic government there. We understand that, and the Israelis themselves understand that. They have made it clear that they are going to have to "give" something. But the question is whether they will yield their whole security position because the United States tries too hard to accommodate the Russians.

Let us remember that if hostilities break out, on the record Israel has done a great deal better than the Arab States, not that that should be a matter of vain-glory, or a basis necessary for policy, but it should moderate any sense of insecurity we feel when Egypt says it is not going to renew the ceasefire or the Russians say that "anything can happen." If anything happens, it may be more dangerous for the Arabs than for Israel. But I think the answer, as the Senator is so correct to say, is just to keep our "cool."

We know that neither party can get all it wants to, but we certainly are under no necessity or even compulsion to make—which is what this is all about—Israel throw in on Arab demands.

Mr. BAYH. I certainly appreciate the comments of the Senator from New York. This business of negotiating and solving some of the differences that have existed, really for ages, is not going to be an easy one, but it must be resolved by the parties who have been for part of the problem and must, therefore, be a part of the solution. To the degree that the United States and the Russians throw themselves in on one side or the other—at that moment in history we have totally removed the issue of secure boundaries and how they are arrived at from the process of negotiation.

I hope that this will not happen, but I must say that I am concerned and to the degree that those Senators here have expressed concern to me, we may minimize the chance of it happening.

Mr. JAVITS. Mr. President, I agree. I thank my friend, the Senator from Indiana.

ORDER FOR RECESS TO 11:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11:30 a.m. tomorrow.

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

CHRISTMAS EDITORIAL BY VIRGINIA WELDON KELLY

Mr. STENNIS. Mr. President, recently my attention was called to a splendid editorial entitled "Be Ye Kind One to Another."

I now call to the attention of the Senate and the people of the Nation that

editorial which was written by Mrs. Virginia Weldon Kelly. It appeared in the Long Beach, Calif., Independent Press Telegram of December 25, 1970, and many other newspapers in several States.

I ask unanimous consent that the editorial of Mrs. Kelly be printed at this point in the RECORD so that the spirit and inspiration may be shared by the people of the country at large.

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

BE YE KIND ONE TO ANOTHER

(By Virginia Weldon Kelly)

Christmas renews our joy in Jesus, who said, "Blessed are the peacemakers for they shall be called the children of God."

Teaching that God is love, He admonished His disciples to love one another as He loved them. With understanding, Saint John said, "If a man says he loves God and hateth his brother, he is a liar."

The old and new Testaments, all great religions and philosophies forbid anger which Saint Augustine defined as "the wicked will be avenged."

For two thousand years, anger has been called a cardinal sin equal to pride, envy, sloth, avarice, gluttony and lust.

Jesus gave anger's antidote in the greatest commandments: to love God with all our hearts, souls, and minds; and our neighbor as ourselves.

Anger affecting generations, classes, races, and sexes is reflected in our country by unseemly words and deeds.

Jesus eternal and newly rediscovered offers healing and the way of life to all, and especially to the young who deplore materialism's emptiness.

In "Love and Will," the psychoanalyst Dr. Rollo May writes that only love can heal modern society's emptiness which has brought hatred, violence, and assassination.

The prayer of Saint Francis of Assisi is timely: "Where there is hatred, let me sow love."

Saint Paul, who said, "Let not the sun go down on your wrath," expresses our Christmas wish: "Be ye kind one to another, tender-hearted, forgiving one another as God for Christ's sake hath forgiven you."

THE AMERICAN PEOPLE SAY END THE WAR NOW

Mr. HARTKE. Mr. President, public opinion polls indicate that until fairly recently the American people, albeit with great reluctance, supported first President Johnson, then President Nixon in their determination to continue the Indochina war until some sort of "victory" could be won. We now know, however, that 1968 was the great transitional year for popular support of the war, and Mr. Nixon was elected on a pledge to end it.

He has not carried out that pledge. Fully 18,000 American men have died in Indochina since President Nixon took office—and that is one-third of our entire total of fatalities. Though our casualty rate has indeed dropped in the past year, our commitments have widened; and the prospects for ending the war and terminating our military commitments to the governments of Indochina are no brighter today than they were in 1968.

This the American people know. They have seen through the mists of official rhetoric and they now reject the spurious

rationalizations that are meant to pass for statements of policy. And as a recent Gallup poll showed, 73 percent of the people now want the war ended by not later than the end of this year.

Nowhere has this shift in public opinion appeared more dramatically than in the great heartland of America, the Middle West. It becomes increasingly obvious to me with each day I spend in my own State of Indiana. And just last week, a very perceptive essay by the distinguished journalist, Joseph Kraft, described a similar mood in Minnesota, where "both houses of the State legislature are considering bills that question the authority of the Federal Government to draft Minnesota citizens for service in undeclared wars."

The resolution I introduced on March 4 calling for immediate withdrawal of all American forces from Indochina, conditional only upon their safety and upon a satisfactory arrangement for release of our prisoners of war, is based firmly upon the will of the American people. The overwhelming majority who say they want an end to the war by the end of this year would, I am convinced, demand that it be ended immediately if they were made aware that the only consequence of continuing it for the additional 8 or 9 months would be 2,000 dead and 10,000 severely wounded Americans and \$9 billion wasted.

Mr. President, I asked unanimous consent that the article by Mr. Kraft be printed in the RECORD at this point.

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

[From the Washington Post, Mar. 4, 1971]

WAR STIRS MINNESOTA

(By Joseph Kraft)

MINNEAPOLIS.—The Democrats may not be the war party, as their critics so often charge. But neither will the country back a war unless it is supported by the Democrats.

For the Republicans are too much of a minority to sustain a war on their own hook. And nothing shows it better than the dramatic turn of opinion against the Vietnam policy of the Nixon administration here in the heartland state of Minnesota.

The state has been subject to deep doubts about the war for years. Minneapolis was the first port of call for Allard Lowenstein back in 1967 when he set out to organize a nationwide campaign against the war. Eugene McCarthy, who became the leader of that campaign, was senator from Minnesota. And the McCarthy candidacy won the endorsement of the Democratic Party in three of this state's eight congressional districts in 1968.

But in loyalty to Lyndon Johnson, the regular Democratic leadership in the state went after the doves with a vengeance. The state's leading political figure, Vice President Hubert Humphrey, equated those who would make a political settlement with those who would "let the fox in among the chickens." Sen. Walter Mondale denounced "one-issue" in politics. And under these assaults antiwar opinion tended to be obscured and muted.

But with Mr. Nixon in the White House the constraints on dovish opinion have dropped away. A Niagara of antiwar feeling has been loosened by the latest events in Laos.

According to the highly respected Minneapolis Poll, the President's approval rating in the state has dropped from 49 to 41 per cent in the past few weeks. Half the voters oppose

the use of American air power in Laos. Two-thirds of them believe American forces will be fighting on the ground in Laos and Cambodia a year from now.

Senator Humphrey has joined the ranks of the critics with the claim that had he been elected in 1968 he would have had all American troops out of Vietnam by now. Senator Mondale has emerged as a leading dove, author of a resolution to deny any American support for an invasion of North Vietnam.

Gov. Wendell Anderson asserts that "Vietnam is the No. 1 issue. People may be sick and tired of talking about it. They may not want to read about it. But they've made up their minds. They want the war over and done."

Naturally, the university is not exempt from these feelings. Minnesota's president, Malcolm Moos, a former speechwriter for President Eisenhower, has been able to keep things relatively calm. But he likens the present situation to the "sitkrieg that took place after the Germans conquered Poland in 1939. You know, everybody speculated they might not move again. But then came spring, and they attacked."

Both houses of the State Legislature are considering bills that question the authority of the federal government to draft Minnesota citizens for service in undeclared wars. The Senate committee hearing the proposal reported it out favorably by a lopsided majority.

One of those testifying for the measure was the wife of a pilot shot down over Laos in February 1969. Mrs. Richard Walsh told the Legislature:

"My husband wore the uniform of his country for over 20 years. He was a dedicated believer in supporting his President and our nation. I never recall him doubting the reasons for our presence in Asia, but I think if he were here today he would question our involvement . . .

"The number of men missing in Laos is ever increasing. Not one letter from any American has ever come out of Laos. Not one American man is listed as a prisoner in Laos, all 267 are listed as MIA—missing in action. Gentlemen, the war has gone on too long and the bombing has gone on too long. I believe the Pathet Lao and the North Vietnamese to be rigidly inflexible in this regard. They mean what they say when they say there will be no man released until we set a date for complete withdrawal for supportive and combative troops in South Vietnam."

The general meaning of all this is not in doubt. The fact is that President Nixon has not wound down opposition to the war. He has not defused the Vietnam issue. On the contrary, with the Democrats finally free to say what they really think, it is more difficult than ever to maintain a base for continuation of the war in Vietnam.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, following the approval of the Journal, if there is no objection, and the recognition of the two leaders under the standing order, the able Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, fol-

lowing the remarks of the able Senator from Wisconsin (Mr. PROXMIRE) tomorrow, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, the period not to extend beyond 12 o'clock meridian.

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

AUTHORITY FOR THE SUSPENSION OF RULE XXII ON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the operation of Senate rule XXII be suspended tomorrow until 12 o'clock meridian.

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

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TOMORROW UNTIL 11:30 A.M. WEDNESDAY, MARCH 10, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 11:30 a.m. on Wednesday morning next.

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

ORDER FOR RECOGNITION OF SENATOR CHURCH ON WEDNESDAY, MARCH 10, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Wednesday morning next, immediately following the disposition of the Journal and the recognition of the two leaders under the standing order, the distinguished Senator from Idaho (Mr. CHURCH) be recognized for not to exceed 15 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE DILEMMA FACING THE NATION'S CITIES

Mr. BAKER. Mr. President, few if any of the Nation's cities face the multitude of problems confronting the city of New York. An increasing demand for services is met by a decreasing capacity to raise the necessary funds. Although the city and the State have made courageous efforts to meet the needs of the city, it becomes increasingly clear that the fiscal resources of the city and the State are inadequate to the job. On a somewhat

lesser scale, this same pattern is emerging in communities throughout the Nation.

It is in recognition of this dilemma that the President of the United States has proposed a system of general and special revenue sharing. Such a system would draw on the unquestioned efficiency of the Federal revenue-collecting structure and on the familiarity of State and local governments with their own needs and priorities.

I ask unanimous consent that two editorials on revenue sharing appearing in the March 6, 1971, editions of the New York Times be printed in the Record.

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

NEEDED FEDERAL TAX LIFELINE

The enormous new city and state taxes confronting New Yorkers drive home the necessity for a massive program of Federal revenue sharing. Whatever the argument over the size and thrust of President Nixon's tax sharing plan, one point is undebatable: the Federal Government alone can raise funds in a manner that will enable New York and other metropolitan centers to meet their huge needs without drying up industry and driving away their most productive citizens.

The big cities have become the repository of the social anguish generated by the technological revolution in agriculture and other long-term upheavals that have concentrated 80 percent of the country's population in urban areas. Yet, as New York's plight demonstrates, the more energetically each community draws on its own resources to grapple with the consequences of this national dislocation, the harder it becomes to hold on to the business enterprises and the creative people needed for viability.

America's cities and states are in frenzied competition to attract and retain industries that will provide stable jobs and function as responsible corporate citizens. The level of local taxes is a major element in that competition.

It becomes particularly decisive when a city depends as heavily as does New York on its appeal as a headquarters for industry, finance, communications and other white-collar activities. Attractiveness to middle management tends to be controlling in company thinking on whether to come or to stay.

When New York City projects a 6 percent local payroll tax at the same time that state income taxes are due to rise and the combined level of city and state sales taxes goes to 7 per cent, it is nonsense to suggest that these imposts will not operate as a powerful deterrent to many employers—to say nothing of their effect on middle-class and well-to-do families.

The whole national tax pattern is becoming a crazy-quilt in which the cities and states that are most responsible in meeting social needs are at a crushing competitive disadvantage. The Federal Government could best rationalize the structure by functioning as central collector of individual and corporate income taxes, then making disbursements to the localities under equitable standards established by Congress. That is the direction in which revenue sharing points.

As it is, the Federal Government last year collected \$90 billion in individual income taxes and \$33 billion more in corporate taxes. For state and local governments, according to the Tax Foundation, collections came to \$11 billion in individual income taxes and another \$4 billion in corporate payments.

Pennsylvania and Rhode Island have just joined the club, but eleven states still collect no income taxes.

It is perfectly plain that neither New York City nor New York State can avoid the painful necessity of doing much more on their own, no matter how generously Washington responds this year. But the economy-chilling potentialities of the specific programs now under consideration at City Hall and in Albany are so drastic that the patient may well die if the White House and Congress bog down in endless debate over the right cure.

SOUND START BY THE PRESIDENT

The messages President Nixon has sent to Congress on the manpower and urban development parts of his revenue-sharing plan reflect an admirable willingness to adapt his program to make it more responsive to valid criticisms.

He has recognized the incapacity of many local governments to measure up to the heavy responsibilities the Administration plan would thrust on them by recommending a \$100-million program of planning and management assistance to states, cities and area-wide agencies. Such a program could do more than raise the deplorably low level of professional competence now so widespread in local government. It could contribute to regionalization and other movements toward more rational organization of local services.

Similarly, in the manpower field, Mr. Nixon has recognized that the ultra-purist view of job training he took in vetoing the bill passed by Congress last year would work to deprive hard-pressed cities of the opportunity to create public service jobs that would benefit the unemployed as much as the community.

On urban development he has provided maximum latitude to the cities in applying funds that up to now have been smothered in red tape to the vast detriment of progress. He rules out none of the programs now under way, from Model Cities to sewer construction; but the absence of any apparent standards or review power on the part of the Federal Government may prove a death knell for many undertakings vital to the poor.

Over-all, the central criticism remains the small size of the special sharing programs. When allowance is made for normal growth of programs launched in recent years, it is not enough to provide assurance that no city will lose funds. The needs are staggering. Standstill grants are not remotely adequate.

SPECIAL REVENUE SHARING

Mr. BAKER. Mr. President, on February 9, on behalf of myself and 37 of our colleagues, I had the privilege of introducing S. 680, embodying the President's general revenue-sharing proposal.

In seeking support for that proposal, I frequently encountered Senators who expressed approval and, indeed, enthusiasm for the general revenue-sharing concept but who were concerned about the implications of the second component of the President's concept: special revenue sharing.

Ironically enough, it now appears that the three special revenue-sharing proposals which have surfaced to date—law enforcement assistance, manpower development, and community development—are generating as much or more public support than the more simple and readily acceptable proposal for general revenue sharing.

In my view it is essential that both

general and special revenue sharing be enacted, because only then will Federal aid to State and local governments have maximum flexibility, coming as it would in three distinct forms: general revenue sharing, with no strings attached; special revenue sharing, or block grants, for use according to local needs within broadly defined areas of national priority; and categorical grants-in-aid where a strong and precise Federal presence is necessary.

Mr. President, I ask unanimous consent that an article by James Welsh, which appeared in the March 6 editions of the Washington Evening Star be printed at this point in the RECORD.

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

URBAN GROUPS HAILING NIXON TAX-SHARING PLAN

(By James Welsh)

Organizations that represent the nation's mayors and cities today responded warmly to President Nixon's latest revenue-sharing proposal, a \$2 billion package of urban-development aid.

"Our people like the sound of it," said Patrick Healy, executive vice president of the National League of Cities.

Healy said the President's message to Congress on the proposal, announced yesterday, "is so good we're going to have it reproduced and sent to all our members."

At the same time Healy qualified his comments to say that some cities, notably those that in recent years aggressively sought and obtained large urban renewal grants, may be disappointed in that they will eventually get less money under Nixon's proposed new formula for subsidizing local governments.

THIRD OF SIX PROPOSALS

The Nixon plan, the third of six special revenue-sharing proposals to be made public, would consolidate four big existing programs—Model Cities, urban renewal, housing rehabilitation loans, and water and sewer grants.

Eighty percent of the \$2 billion consolidated fund would go to 247 standard metropolitan statistical areas, containing nearly 70 percent of the nation's population. These are areas containing at least one city of 50,000 population.

The money would be distributed according to a formula based on four factors—population, degree of overcrowding in homes and apartments, degree of substandard housing, and the incidence of poverty within the population.

GENERAL STATEMENT

To get the money, local governments would have to do nothing but submit a simple general statement on how they intend to spend it. If this fits the plan's definition of "community development," a definition still to be formulated, the money would be forthcoming, no strings attached.

Of the remaining 20 percent, more than half would be needed for a provision of the plan guaranteeing that no community would receive less in urban aid than before.

At a press briefing, George W. Romney, secretary of the Department of Housing and Urban Development, qualified this "hold harmless" guarantee to say it would be good only during the first year of the program. After that, the guarantee would phase out, with every community receiving funds according to the population-housing-overcrowding-poverty formula.

Under such a provision, as Healy pointed

out, a number of cities may eventually lose money. Others would gain. Added the League of Cities official:

"I think as the cities study the details of the program, they'll find much to recommend it. For one thing, it promises a source of steady funding, whereas in the past, funding from Washington has been largely unpredictable."

Last Tuesday, Romney outlined much of the plan to a group of mayors who were largely receptive to it, Healy said. The mayors included Thomas D'Alesandro of Baltimore, Joseph Alioto of San Francisco and the District's Walter Washington.

Many of the nation's mayors have grown increasingly critical of the administration recently because the White House has withheld nearly \$1 billion in appropriated urban aid for the current fiscal year.

"That's the current hang-up," said Healy. "Those frozen funds amount to a sleight-of-hand gimmick, and it's too bad it has come to be confused with the revenue sharing proposal. Divorce the withholding of funds, and the rest looks pretty good."

THE PRESIDENT'S GENERAL AND SPECIAL REVENUE-SHARING PROPOSALS

Mr. BAKER. Mr. President, I have become increasingly disconcerted by what appears to be a conclusion in some of the news media that President Nixon's general and special revenue-sharing proposals face certain defeat in the Congress.

It is certainly true that the proposals do not have universal support. It is also true that general revenue sharing faces opposition from some quarters, at least one of those quarters being a very potent one—the chairman and ranking Republican on the House Committee on Ways and Means.

But it is altogether wrong to assume that the President, the many Members of both the House and the Senate who support the proposals, the Governors, mayors, and county officials who participated in their drafting, or some 77 percent of the American people reported by George Gallup to be in support of revenue sharing, have abandoned the fight.

On the contrary, revenue sharing and the other elements of what the President has so rightly termed a "new American Revolution" are very much alive, and the battle is only just being joined. The opinions of local and State officials and the preferences of the vast majority of the American people will not be ignored by the Senate of the United States and the U.S. House of Representatives.

I recently had the privilege of accompanying the Vice President to a meeting with State and local leaders at Indianapolis. The response at this meeting was overwhelmingly favorable to revenue sharing, and it was a wholly bipartisan, even nonpartisan response. Revenue sharing has won the support of Democrats and Republicans alike. I was particularly impressed by this fact at the Indianapolis meeting.

Some have alleged that the President does not want a program, that he simply wants an issue, that he wants to be able to label the 92d as a "do-nothing" Con-

gress. Although we might well deserve such a label if we do not take affirmative action on the President's proposals, to suggest that this is his wish could not be a more tortured version of the truth. President Nixon has been an active student of government and participant in government for a quarter of a century, and these revenue-sharing proposals, together with his recommendations for organizational reform, give flesh to his most deeply held beliefs about the nature of our democratic republic and how it can best meet the legitimate needs of the people it is bound to serve. To suggest that he does not seek the enactment of these proposals, that he is indifferent to their ultimate fate, borders on being ludicrous.

If nothing else, this President is a realist. He can count, and he knows that his program will need support from members of the Democratic Party. He has repeatedly made it clear that he earnestly seeks such support. This determination to win opposition support is clearly reflected in the details of the three special revenue-sharing proposals that he has not transmitted to the Congress. Each of these proposals incorporates features suggested by critics of the concept.

On Friday, February 19, the National League of Cities and the National Association of Counties hosted in Indianapolis the meeting that the Vice President and I, among others, attended.

That meeting was historic because those assembled unanimously adopted the following resolution in support of general revenue sharing:

Whereas, the National League of Cities and the National Association of Counties have supported the concept of revenue sharing for more than five years; and

Whereas, Revenue Sharing provides a distribution of power and resources that will strengthen the Federal system and lead to a revitalization of state and local governments; and

Whereas, the fiscal plight of local governments of all sizes has grown more acute and is beyond the capacity of local governments to solve without assistance from the Federal government; and

Whereas, the local and state governments worked closely with the Administration in the development of a new general revenue sharing proposal which the President has adopted and forwarded to Congress for action: Now therefore be it

Resolved, That those members of the National League of Cities and the National Association of Counties meeting in Indianapolis, Indiana, February 19, 1971, reaffirm their long-standing commitments to general revenue sharing, commend President Nixon for his leadership in offering this vital and long overdue proposal and call upon the continuation of bipartisan efforts in the Congress to immediately enact the \$5 billion general revenue sharing measure.

The unanimity of support for the resolution adopted at Indianapolis is indicative of the widespread support for revenue sharing in this country today.

We must revitalize the capacity of our State, county, and municipal governments to deal with their own problems according to their own priorities. General and special revenue sharing are the

most important steps that this Congress can take in that direction.

Mr. President, I ask unanimous consent that a speech delivered at Indianapolis on February 19 by the distinguished mayor of that great city, Richard G. Lugar, be printed at this point in the RECORD.

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

REVENUE SHARING, A REDRESSING OF AMERICAN FEDERALISM

(By Richard G. Lugar, Mayor of Indianapolis)

Vice President Agnew, and fellow governmental officials: Despite assurances that 77 percent of the American people favor revenue sharing, including 42 Governors at latest count and a prohibitive majority of state legislators, county officials, and municipal officers, it is widely predicted that revenue sharing will not enjoy legislative life during the current session of the United States Congress. This pessimistic assessment is not based on closely guarded rumors but rather on several conspicuous and widely reported speeches delivered by Congressman Wilbur D. Mills, Chairman of House Ways and Means Committee. In a bipartisan spirit of opposition Congressman Mills has been joined by Congressman John Byrnes, the ranking Republican member on the House Ways and Means Committee.

They have raised questions such as: (1) What revenue does the Federal government have to share? (2) Why should those who spend the money not have the responsibility of raising it? (3) Will proposed revenue sharing distributions injure certain states and cities by disrupting current grant-in-aid programs, ignoring severe needs of unusually hard-pressed situations, and falling to meet national objectives which the Congress has stated on numerous occasions through legislation? (4) Is not the performance level at the state and local level a most uneven prospect and worse still, what assurances does the federal taxpayer have under revenue sharing that his monies will not be squandered, used for racial discrimination, stolen by venal local politicians, or used by ambitious political rivals of Federal officials to strengthen partisan or personal political machinery?

A few news analysts have concluded in the month following President Nixon's State of the Union Message that the questions raised promptly by Congressman Mills and others are "devastating" and that those of us gathered here in Indianapolis today for a strategy conference on revenue sharing are discussing an academic issue whose time has come and gone within a relatively brief month.

A cursory reading of the national press indicates that many Congressmen who extol the virtues of grass roots government enjoy the pleasures of grass roots spending patronage even more and are prepared to protect each and every one of 435 categorical grant-in-aid programs against tampering by consolidation, simplification, or even further discussion of such can be discouraged.

Other journalists find the immediate debate intriguing and the role of Congressman Mills and a majority of the House Ways and Means Committee flexible. Two broad courses of action are suggested as methods of achieving sounder state and local budgets without adopting a revenue sharing plan.

First of all, larger bloc grants of revenues to state governments might be employed with relatively few strings attached. In this manner, broad objectives of Congress in health, education, welfare, environmental issues, transportation, and other pursuits

might be met without giving up all ties to the money. In summary, President Nixon would be granted a more flexible federal mechanism and local governments while failing to enjoy the promised land of "no strings attached" money might find appeal in more abundant monies only a few stages removed from local control.

Secondly, a few political observers have suggested that Congressman Mills and others ought to outflank the President's alleged political strategy by coming forward with plans for complete Federal assumption of public welfare payments, an objective which would relieve much state and local financial anxiety, rationalize a current nightmare of regulation and misapplication, and recapture a Federal role of responsibility without surrendering any other roles and privileges.

I have reviewed a portion of current discussion about revenue sharing because so much water has gone over the dam since President Nixon's most recent revenue sharing proposals that the simple bald assertions of the past are no longer persuasive. That state and local governments are suffering budgetary problems of severe national consequences and that state and local governments know best how to spend scarce tax dollars, these arguments are self-evident to most Americans. Eventually, the stark simplicity of these arguments may prevail. In the meanwhile, let us spar a few rounds in the in-fighting which will precede an honest coming to grips with revenue sharing legislation.

Federalism in the United States of America involves intergovernmental cooperation among all levels of government if it is to work. It is not an easy process to fine-tune all of the elements nor is it an easy task to provide service to 206 million Americans under thousands of diverse geographical and historical circumstances. We approach the prospects with perpetual confidence because we see government in this country as one whole cloth. If, in fact, we are a people determined to be divided into different levels of government, determined to stand on the proposition that Federal government is essentially of a different character than state government and that local governments are essentially different and antagonistic to both of the above, we are not only dealing in a dangerous fiction, but governmental quality and diversity will suffer grievously in the years ahead.

Let me state the proposition in unmistakable language. A few Congressmen are operating under the illusion that Congress can establish national priorities, pass laws to alleviate discovered needs, raise revenues and appropriate monies to meet these needs, formulate organizational structures to implement the spending, review the results by conducting public hearings and reading reports from the field, and thus respond to the national will and achieve the public good.

In truth, the Congress of the United States, as a body, reacts very sluggishly, if at all, to current needs in the country, indulges in considerable individual oratorical efforts to dramatize sensitivity, occasionally passes laws which are well meant but clumsy responses to a myriad of local situations, does raise revenue but appropriates funds in a rather hap-hazard and ill-timed manner to meet already fuzzy legislative mandates, conceives implementation which is frequently so wide of the mark as to render hapless whatever idealism the legislation contained, and then listens to reviews of what happened which bear only a possible relationship to the truth because the realities of what occurred are unknown to Federal officials at any level for many months and even years after the fact.

This is not an overdrawn summary. It is stated so badly because Congress will need

to make a fundamental decision in the revenue sharing debate. Either State and local governments are a part of the Federal system of government or the Congress had best employ tens of thousands of new functionaries to monitor what actually does occur in the American Federal system. For the moment, State and local governments stand between the Congress and sheer anarchy.

While Congressmen ponder over the potential quality of local governmental officials, the nation observes a Congress long overdue for fundamental internal reform and the Executive branch of government crying out for the radical surgery which the President recommended in his State of the Union address and which many Congressmen dismissed as unrealistic and Utopian thinking.

If the current system of Congressional speech-making, legislation, taxing and spending had worked, with a reasonable degree of success, the current pressures for revenue sharing would be much less intense. In fact, however, the domestic problems of the United States have become much more grim while Congress passed more and more bills and parcelled out more and more billions of dollars, most of them unknown in quantity or form to State and local administrators who became reluctant bystanders in this bizarre process. Congress has created far too many ill-defined, unintelligible, and ineffective political mechanisms which are ill-coordinated and in many cases, contradictory in impact. Congress can literally get by with such shoddy results because it is, in reality, very seldom accountable for any expenditures or results, insulated from the every day cares of actual face-to-face confrontation with ordinary citizens, and divided into tens of tiny duchies serving very narrow interests at the expense of the general public as a whole.

In August of 1970, the Report of The President's Task Force on Model Cities was published and under the guidance of Professor Edward C. Banfield, Chairman, addressed itself to the questions I have been discussing generally. The report commenced by saying, "In recent years the federal government has taken many important steps in the direction of supporting the cities in their efforts to provide more and better services. The creation since 1960 of two new departments concerned mainly with urban affairs (housing and transportation) and the Council for Urban Affairs are examples of this greater support as is the increase in federal aid to urban areas from \$3.9 billion in 1961 to \$10.3 billion in 1968. There is little doubt that when the Vietnam War ends the federal contribution to local government revenues will rise sharply again. Some expect it to double almost immediately.

"Unfortunately these efforts have not produced the results that were hoped for in the places where conditions are worst, especially the inner parts of the older and larger cities. One reason for this is that the really big federal outlays—for subsidized mortgages, highway construction, hospital construction, and aid to elementary and secondary schools—have gone mainly to the suburban fringes, where most of the growth has been taking place, and to rural areas. The central cities have not had anywhere near as large a share of federal expenditures and tax subsidies as is generally supposed.

"Another reason why the money has produced disappointing results is that almost every dollar of it has had a thousand strings attached to it. There are about 400 federal grant-in-aid programs, each with its own set of rules and regulations, some statutory and some administrative, often very detailed. Because a city receiving a grant can use the money (as well as whatever matching money it may put up) only for the purposes and in

the manner specified by these rules and regulations, a great deal of waste and frustration results. Cities commonly find themselves able to get federal money that they can spend only for things that are relatively low on their list of priorities (highways and urban renewal projects, say) and at the same time unable to get money that they can spend for the things that they consider most urgent (hiring more teachers and policemen and paying them better salaries, say). Everyone knows of instances in which a city has done things with federal money that it would not have done with its own simply because otherwise the federal money would be "lost." Everyone knows, too, of instances in which a city was unable to do something that should have been done simply because the 400-odd "categorical" programs did not authorize the doing of that particular thing.

"Federal laws and regulations not only restrict the purposes for which money can be spent; they also prescribe how the cities are to organize and manage their programs. In this manner city governments are prevented from using the full strength of their local styles and capacities in the creation of organizational forms and procedures. They are rendered incapable of dealing effectively with problems that in the opinion of a Washington official (but not necessarily in fact) fall in the space between categorical programs, and they are made objects of distrust by citizens who see that they are serving the interest of others (those eligible for something that is federally supported) at their expense. We believe that if mayors and other local elected officials did not have to play second-, third-, or fourth-fiddle to so many federal officials they could do a much better job of managing the conflict that is so characteristic and important a feature of American city life.

"The jungle-growth of aid programs is formidable. The planners of the model cities agency of Cambridge, Massachusetts, for example, have identified 134 federal and 17 state programs that they think might contribute to their model cities program. They must make separate applications to each program; if they should receive aid from all, they will have to follow 153 different sets of rules and regulations, most of them very detailed.

"It would be easy to blame these developments on arrogant bureaucrats and the almost universal tendency of bureaus to aggrandize themselves. These are indeed important factors in the situation. But it must be remembered that it is Congress which attaches the largest and most important of the strings to the federal dollars. Some of these it attaches at the behest of special interests. Others it attaches in an effort to assert what may be called a national will or purpose. Most of the rules and regulations made by executive agencies are justified by them on the grounds that they are responsible for seeing to it that the money is spent as Congress intends.

"This is the way the American system of government works, and we do not think that it is either possible or desirable to change it in its essentials. We would note, however, that as a rule Congressional purposes are stated in very general terms. Agency heads, in prescribing the detailed regulations by which these purposes are to be given content in particular circumstances, necessarily rely heavily on their own more or less arbitrary judgments. There is no reason to suppose that their judgments about what is or is not implied by a statement of Congressional intent is necessarily sounder than the somewhat different judgments that might be made by other persons—local government officials, for example. To be sure, the

agency heads are under the discipline of knowing that they may be called publicly to account before a Congressional committee if they make determinations that are clearly inconsistent with the spirit, not to mention the letter, of the law. The effect of this discipline, however, is to incline them to play it safe and piling on regulations and then more regulations. They know that they will not be praised for getting things done; their problem is to avoid being blamed for doing things that Congress—or rather certain Congressmen—do not want done, and the way to avoid blame is to take as few chances as possible. It is probably safe to say that timid bureaucrats produce more red tape than arrogant ones.

"We believe that city and state officials are as capable as federal ones of reading the laws that Congress passes and of interpreting them correctly. We believe also that in general they can be trusted to respect the intentions of Congress and this even though they, unlike the federal officials, do not have to answer hard questions before Congressional committees. There can be no doubt that the capacity of local officials to do these things has been growing steadily and that in most parts of the country it is now fairly high. Looking ten to twenty years ahead, we feel reasonably confident in predicting further dramatic improvement in the quality of local government provided that the Federal government allows it greater freedom.

"Even if the quality of local government is much poorer than we suppose it to be, it is essential, in our opinion, that there be an immediate and large-scale shift of responsibility from federal to local officials. The scale of federal operations in the cities has suddenly become much too great to be carried on under the present arrangements. Now that billions instead of millions are being appropriated, the system simply will not work as it used to; Congress and the federal bureaus cannot possibly regulate and supervise the details of hundreds of programs operating in thousands of cities. It is necessary either to give local governments vastly greater freedom in the use of federal funds or else in effect to replace them with a much enlarged federal and state bureaucracy. We have no doubt whatever as to which alternative is preferable."

We are thus discussing, today, whether the American Federal system might work better if \$5 billion or slightly more than 2 per cent of the current Federal budget might be spent by agents of the new federalism, state and local governmental officials, with superior results when compared with past performances of other representatives of the Federal system. We are discussing the value of having active local citizen scrutiny of tax funds which have escaped such watchfulness in the past. We are not discussing new taxes nor are we discussing the winding up of various programs, however desirable such winding up might be. Every state and city will be better off financially and better off in terms of potential responsiveness and accountability to an electorate which shows many signs of weariness with all government, currently.

We are prepared to give full credit to Congress for showing new vigor and ability to show faith in new ways of extending national idealism to local implementation.

I have no doubt that as the revenue sharing debate proceeds, attempts will be evident to renew old antagonisms between state and local governmental officials. Suggestions that the mandatory pass-through feature be dropped in favor of purely state-administered bloc grants reveal the poverty of imagination which surrounds those who cannot see clearly that the new federalism demands responsive and enthusiastic participation at the grass roots level by vital, living, organisms called local governments who do not

want to become wards of the Congress or Federal and State administrative bureaucracy. Suggestions that the Federal government might assume new burdens such as greater welfare costs might be constructive, but such suggestions do not replace the fundamental virtue of revenue sharing.

The time must be at hand for local governments to determine local priorities not as a purely parochial calling but in the light of activities which will make the United States of America a stronger nation. The President and Congress must see that our foreign policy depends fundamentally upon our internal strength and ability to withstand unusual technological stresses instantly and with constancy. This internal strength must be a high national priority. It has been taken for granted but even a casual look at the state and local governments of America today should indicate that vital local strength can be taken for granted no longer.

If we are asked—what revenue is there to share?—we must answer with one voice that the first \$5 billion in the current Federal budget had best be spent insuring the vitality of state and local governments who hold together that vast structure of government which supports the Federal establishment. If Congress has "shadow governments" to disperse throughout the land, let them come forward. Otherwise, Congress would do well to trust those now in state and local authority to do a better job than the results of the past indicate that present grant-in-aid structures and methods achieve.

I appreciate that in the midst of a revenue sharing seminar, we can become highly emotional about our cause. I feel a natural surge of anger whenever I hear a Congressman suggesting that he knows more about the needs of Indianapolis than the Mayor or the Council of this city. That is the assumption of each Federal program with which we struggle in this city. The temptation is frequently very great to clear the entire Federal apparatus away and to pretend that we do not belong to any Federal system. I am certain that we could put a perverse twist on Congressman Mills' logic and suggest that those Congressmen who have presented our local government with such a welter of federal laws with which to comply ought to bear the penalty of raising the funds to help us comply. In summary, in return for the physic pleasures of passing laws to do good must come the pains of paying for it.

For the moment, however, let us appreciate that political life does not permit instant poetic justice. It does permit plain speaking. I am convinced that the ordinary citizen wants responsive government and visible performance, now. This state of affairs can come about with considerable strengthening of American federalism, in the process.

Our task as local officials is to make certain that enthusiasm for reform of the Congress, of the federal bureaucracy and of state government does not obscure the pressing need for local structural reform. That need is monumental and all of the money in America is not going to revitalize local government unless business practices, sensitivity to the problems of all citizens, highest caliber citizens participation, and abundant imagination replace far too many situations in which government is fragmented unbelievably geographically and functionally, some citizens are ignored, and ill-qualified and unimaginative leaders are at best simply holding on for dear life while talent and wealth and hope ebbs away.

The crises of many cities were not created by the Congress, the President, or state governments and will not be remedied by them.

Revenue sharing, now, can make a big difference in arresting a dangerous trend to-

ward failure of the Federal government to produce results even with the best of intentions and tens of billions of dollars to back up those intentions. The federal system and this includes local governments can be strengthened and this will say much to questions about the quality of government as our country becomes even more diverse and complex. All or any of this will, occur, finally because a sufficient number of individual Congressmen see merit in the idea of revenue sharing and note that we plan to support them in their work and to criticize them without pause if they are arrogant, indolent, or unwilling to take seriously the strong pleas of every other branch of government in America. Revenue sharing is not a simple solution to all that ails America. It is an important step in the strengthening of our country and all its governmental institutions. It is sufficiently important that the sentiments of each Congressman must be found and the good will of each Congressman secured by those among us who have political strength in our own localities.

Congressmen who oppose us will need to face us with better arguments than specious judgments that we are seeking to spend Congressional money that we are incompetent or potentially dishonest, that there is no money to spend, that our abilities to do well are dubious even in light of their disastrous activities of the past.

We are in process of setting the domestic record straight. The status quo is indefensible and even very influential Congressmen will not be able to walk like the "emperor with no clothes" for long. We are going to point out that the Emperor wears no clothes. Having said this, we are commencing a re-dressing of American federalism from top to bottom.

TRIBUTE TO DR. GUY L. VARN

Mr. THURMOND. Mr. President, a dedicated educator and personal friend recently announced his retirement after a distinguished career in the public school system of Columbia, S.C.

Dr. Guy L. Varn has served faithfully as superintendent of the Columbia—district 1—public schools for the past 20 years. His wise and competent administration of the schools has directly benefited thousands of citizens in our State.

Dr. Varn's own life illustrates his deep personal devotion to education. Born in 1906, he began his formal education in a one-room country school. He earned his high school diploma in Columbia, graduated from Wofford College in Spartanburg, and received his master's degree from the University of South Carolina. Dr. Varn continued his graduate education at Peabody, Columbia, and New York Universities, and was awarded an honorary doctorate from Wofford College.

Dr. Varn came to the Columbia school system in 1936, and served 9 years as principal of Schneider Elementary. He was promoted to the system's central office in 1945, serving 3 years as Columbia's first personnel director, and 3 years as assistant superintendent before becoming superintendent in 1951.

Mr. President, I ask unanimous consent to insert in the RECORD an editorial from the February 24, 1971, Columbia Record of Columbia, S.C., which calls attention to Dr. Varn's lifelong contribution to public education in South Carolina and his outstanding record of public service.

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

THANK YOU GUY VARN

Two decades ago, Guy Varn became superintendent of the Columbia (District One) Public Schools. He was no stranger to the central office, having served three years as director of personnel and another three years as assistant superintendent. Before that, he guided Schneider Elementary for nine years as its principal.

A goodly portion of Guy Varn's life, thus, has been given to the children of Columbia. Many a Columbian knows him well because of his presence in our midst over the extended period of time.

What a rich experience it has been for Varn! "Experience" is a counter-word in the educators' vocabulary, but in this instance it serves extremely well. For Varn has experienced many physical, educational, social and economic changes in the school system he has served.

"My experiences," he said in his retirement letter to the school board, "have been quite varied and challenging." Varied? Challenging? He adds, "I have served through the depression years, the war years, the population explosion, and the massive changes resulting from the Supreme Court decision of 1954." Need one amplify on the alterations, troublesome and tiring decisions, and restraint needed during such a time span to educate Columbia's children and youngsters?

A grateful citizenry can thank Guy Varn for his patience, endurance, loyalty and his constant endeavor to provide the city's young men and women with the best education attainable with the best teachers available and the fiscal resources obtainable.

Few men have served our city so well, so long. For the thousands whose lives were enriched because of prudent administration of the schools where they learned, we say: "Thank you, Guy Varn."

ORDER FOR RECOGNITION OF SENATOR JACKSON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow immediately following the remarks of the able Senator from Wisconsin (Mr. PROXMIER), the distinguished Senator from Washington (Mr. JACKSON) be recognized for not to exceed 10 minutes.

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks of the able Senator from Washington (Mr. JACKSON) on tomorrow, there be a period for the transaction of routine morning business for not to extend beyond 12 o'clock meridian and that statements therein be limited to 3 minutes.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows: The Senate will convene at 11:30 a.m. following the expiration of a recess. Immediately upon the conclusion of the

remarks by the two able leaders under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes, to be followed by the distinguished Senator from Washington (Mr. JACKSON) for not to exceed 10 minutes, to be followed by the transaction of routine morning business with statements therein limited to 3 minutes.

The period for the transaction of routine morning business is not to extend beyond 12 o'clock meridian under the previous order.

The operation of rule XXII will be suspended until 12 o'clock meridian tomorrow. Under the rule there will be 1 hour of debate, and under the previous order, the hour will be equally divided and controlled by the distinguished Senator from North Carolina (Mr. ERVIN) and the equally distinguished Senator from Idaho (Mr. CHURCH).

At the conclusion of the hour of debate, a quorum call is mandatory under the rule. Upon the establishment of the presence of a quorum by the Presiding Officer, a rollcall vote on the motion to invoke cloture on the motion to proceed to the consideration of Senate Resolution 9 will be mandatory under the rule. Therefore, there will be an automatic rollcall vote on tomorrow at about 1:10 p.m.

Following the disposition of the pending business on tomorrow—if cloture is not invoked—the Senate will consider Senate Joint Resolution 7, lowering the age to 18 for voting in State and local elections.

Under the previous order, when the Senate completes its business tomorrow, it will stand in adjournment until 11:30 a.m. on Wednesday next.

On Wednesday next, under the previous order, immediately following action on the approval of the Journal, if there is no objection, and the recognition of the two leaders under the standing order, the distinguished Senator from Idaho (Mr. CHURCH) is to be recognized for not to exceed 15 minutes.

RECESS UNTIL 11:30 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11:30 a.m. tomorrow.

The motion was agreed to; and (at 3 o'clock and 26 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, March 9, 1971, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 8 (legislative day of February 17), 1971:

IN THE AIR FORCE

Maj. Gen. Homer I. Lewis, [redacted] AFV, U.S. Air Force Reserve, for appointment as Chief of Air Force Reserve under the provisions of section 8019, title 10, of the United States Code.

IN THE ARMY

Gen. George Robinson Mather, [redacted] Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of general under the provisions of title 10, United States Code, section 3962.

The following-named officer for appointment as Chief, Army Reserve and for appointment as major general, Army of the United States, and major general, U.S. Army Reserve, under the provisions of title 10, United States Code, sections 3019, 3442, and 3447:

To be major general

Brig. Gen. James Milnor Roberts, Jr., [redacted] Army of the United States (colonel, U.S. Army Reserve).

The following-named officers for appointment in the Regular Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general

Maj. Gen. Howard Wilson Penney, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Roderick Wetherill, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. David Stuart Parker, [redacted]

[redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Raymond Leroy Shoemaker, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Lloyd Brinkley Ramsey, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George Philip Seneff, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Edward Harleston deSaussure, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Hugh Franklin Foster, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Andrew Peach Rollins, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. William Robertson Desobry, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George Lafayette Mabry, Jr., [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Herron Nichols Maples, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Leo Henry Schweiter, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Edward Bautz, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George Marlon Seignious II, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard Logan Irby, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Franklin Milton Davis, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Paul Alfred Feyerelsen, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard George Ciccolella, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. James Francis Hollingsworth, [redacted] Army of the United States (brigadier general, U.S. Army).

MEDICAL CORPS

Maj. Gen. Kenneth Dew Orr, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

Lt. Gen. Hal Bruce Jennings, Jr., [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

EXTENSIONS OF REMARKS

JUNIOR GIRL SCOUTS MAKE AN ECOLOGY PLEDGE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 1971

Mr. WALDIE. Mr. Speaker, many Americans are greatly concerned about the problems of pollution and litter and their effect on our environment and our natural resources.

Unfortunately, too many of us voice our concern and then neglect to follow through.

A group of Junior Girl Scouts and their leaders from Atwater, Calif., have written me of their own environmental con-

cerns, and have also spelled out their pledge to protect the environment and preserve our Nation's natural resources.

I found this group's pledge and letter to be outstanding and worthy of the attention of all Members of the Congress.

Thus, Mr. Speaker, I would like to include the letter to me from Junior Girl Scout Troop 19, Atwater, Calif., in the CONGRESSIONAL RECORD:

FEBRUARY 25, 1971.

HON. JEROME R. WALDIE,
Sacramento, Calif.

MY DEAR MR. WALDIE: Junior Girl Scout Troop 19 is studying a new badge this year. We are pioneering in Eco-Action for 1971. We are learning, what we can, of the problems facing us as a nation and as individuals. We are making a pledge, our own solemn pledge to find the pioneering spirit to start to overcome the problems which are robbing us of

clean water, free fresh air which we need to sustain life, problems of too many people, too much litter and shrinking wilderness areas.

OUR PLEDGE

1. I promise to never, ever throw or drop a single tiny piece of litter on the ground. If I see someone doing it be he child or old, old man, I will pick up his litter and politely hand it back to him.

2. I will never contaminate a stream, river, lake or waterway in any way.

3. I will not waste paper or food. When I am grown, I will not work for a company which willfully pollutes our environment.

4. I will encourage my dad and mom to demand autos which will not pollute, to demand that our local water supplies be clean and healthy and that our sewage treatment plant be adequate for our community; and that our community and state adapt methods of collecting items which can be recycled.