the State of New Mexico, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

135. Also, memorial of the Legislature of the State of North Carolina, relative to textile imports; 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. 7498. A bill for the relief of Marco Viscogliosi; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 7499. A bill for the relief of Ricardo Musci, Carmala Musci, and Giovanna Musci, husband, wife, and minor child; to the Committee on the Judiciary.

By Mr. HÉBERT:

H.R. 7500. A bill to provide for the placement of Lt. Gen. Keith B. McCutcheon, U.S. Marine Corps, when retired, on the retired list in the grade of general; to the Committee on Armed Services.

By Mr. ARENDS:

H.R. 7501. A bill to provide for the placement of Lt. Gen. Keith B. McCutcheon, U.S. Marine Corps, when retired, on the retired list in the grade of general; to the Committee on Armed Services.

By Mr. O'NEILL:

H.R. 7502. A bill for the relief of Mariano Gerbaudo; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 7503. A bill for the relief of Giovanni Gusella; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 7504. A bill for the relief of Rafael Rueda-Lopez; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 7505. A bill for the relief of John Alexander Staine and his wife, Georgiana Melba Staine; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 7506. A bill for the relief of Tan J. I. Kie Sioe; 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:

57. By the SPEAKER: Petition of the Board of Commissioners, Salt Lake City, Utah, relative to clemency for Lt. William L. Calley, Jr.; to the Committee on Armed Services.

58. Also, petition of W. Grant Kilbourne, Pocatello, Idaho, relative to the price of imported sulfur from Canada; to the Committee on Ways and Means.

# SENATE—*Monday, April 19, 1971*

The Senate met at 11 a.m. and was called to order by Hon. JOHN V. TUNNEY, a Senator from the State of California.

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

Eternal Father, we thank Thee for this new day resplendent in the beauty of springtime, for work to do and strength with which to do it.

In these perilous days, we pray for a fresh anointing of the Divine Spirit in all our human endeavors. Spare us from mere idolatry of the past or from the chronic fondling of ancient myths. But help us to recover our pristine purpose and the early idealism of "one Nation under God with liberty and justice for all." Make us amenable to new ideas that are right. Give us a hospitality of mind and magnanimity of spirit toward those with whom we differ. Make us unafraid of the sacrificial way which is noble and good.

O Lord, grant Thy higher wisdom to our leaders and to the people which enables us to sort out the mixed motivations, to identify the partial truths from the whole truth, and to commit ourselves only to that which is holy and righteous. By Thy grace enable us to dwell together in the unity of the spirit and the bonds of peace.

In Thy holy name, we pray. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 19, 1971.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. JOHN V. TUNNEY, a Senator from the State of California, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
*President pro tempore.*

Mr. TUNNEY thereupon took the chair as Acting President pro tempore.

## 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 Thursday, April 15, 1971, be dispensed with.

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

## THE STATUS OF APPROPRIATIONS LEGISLATION IN THE SENATE

Mr. MANSFIELD. Mr. President, now that the Easter recess is behind us and we are moving into the second quarter of the calendar year, we might take a look at where we stand in the legislative program. To date, 86 measures have been passed, including such items as a social security increase, unemployment assistance, Appalachian regional development, and the constitutional amendment on the 18-year-old vote.

With the help of the leadership on both sides of the aisle and the cooperation of the entire membership, major bills have been cleared about as fast as they have been reported and the calendar is up to date. Looking ahead, it would be my hope that this tempo can be maintained.

We can move no faster on the floor, of course, than bills and resolutions emerge from the committees which, I know, are hard at work. I would note, particularly, in the latter connection legislation which is keyed to the Federal budget. A great proportion of the Senate's work derives from that source. It is to be hoped that authorization and appropriations bills, therefore, will be sent to the calendar by the committees as early as possible in the legislative year. Insofar as these measures are concerned, the timing obviously depends not only on the action of the House and the Senate committees but on that of the departments and agencies and the executive offices of the President.

Since we have yet to see a regular appropriations bill reach the Senate floor, and it is April 19 with the fiscal year beginning July 1, I think it is a good time to note that between 1964 and 1970, only six regular appropriations bills out of 73 became law prior to the beginning of the fiscal year for which they provided funds. In the 91st Congress, none were enacted prior to July 1. In some cases, enactment did not take place until we were 6 months or more into the fiscal year.

As has been noted time and again, there is, clearly, a need for procedural remedies in this situation and they are needed not only in the Congress. The distinguished senior Senator from Washington (Mr. MAGNUSON), for example, has for many years urged a change in the Federal fiscal year to equate it with the calendar year and to reorganize the congressional work accordingly. The matter has been raised on the floor and in caucuses. The joint leadership has encouraged consideration of the Magnuson and other new approaches.

It is to be hoped that appropriate committees will give this question attention during the current year. Whether from a commission, a Senate committee or special committee or a joint congressional committee, there is a serious need for specific and comprehensive recommendations—for legislation—to adjust the fiscal year to accord with the realities of the current budgetary process.

Responsibility for the delays in the authorizing-appropriating process rests in all branches of the Government. A substantial proportion of each year's budget—as much as 30 percent of the nontrust fund appropriations—depends on new authorizing legislation. That legislation, in turn, more often than not is

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derived from proposals initiated by the executive departments. Sometimes the specifics of these proposals reach the Congress late in the fiscal year, with consequent delays in the whole appropriation process.

For the coming 1972 fiscal year beginning July 1, for example, approximately $50 billion of proposed expenditures depend on new authorizations. The majority policy committee has prepared a summary showing the progress of new authorizations, and I ask unanimous consent to have it printed in the RECORD.

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

STATUS OF ITEMS REQUIRING ADDITIONAL AUTHORIZING LEGISLATION

*Appalachian regional development programs and Public Works and Economic Development Act*—S. 575 passed the Senate March 11; H.R. 5376 will be considered by the House of Representatives on April 21.

*Atomic Energy Commission*—Hearings on administration bills (S. 958 and H.R. 5522) were concluded March 25. The legislation is expected to be reported by mid-May.

*Child nutrition programs*—no draft legislation has been received.

*Coast Guard*—The Commerce Committee held a hearing March 30 on S. 1223, the administration bill, and expects to report legislation in early May. H.R. 5208 is on the House calendar.

*Commission on Civil Rights*—draft legislation was received on April 5 and referred to the Senate Committee on the Judiciary.

*Comprehensive planning and open space land programs*—draft legislation was received on February 22 and introduced as S.J. Res. 52.

*Economic opportunity*—draft legislation was received March 23. A Labor and Public Welfare Subcommittee held hearings March 23–25. House hearings are also underway.

*Foreign assistance*—no draft legislation has been received.

*Health Maintenance Organization Assistance Act and Health Manpower Assistance*—draft legislation was received March 1. A Labor and Public Welfare Subcommittee has been holding general health hearings.

*Higher education*—draft legislation was received March 1. A Labor and Public Welfare Subcommittee has been holding higher education hearings. Draft legislation on education revenue sharing was received April 14.

*Maritime Administration*—on March 30 the Senate Commerce Committee held a hearing on S. 981 and S. 1220 and expects to report legislation in early May. H.R. 7424 will be considered by the House of Representatives on April 20.

*Military construction*—draft legislation was transmitted on April 5 and has been introduced as S. 1531.

*Military procurement*—draft legislation has been introduced as S. 939 and is currently being considered by the Senate Armed Services Committee. House consideration of H.R. 3818 is also underway.

*National Aeronautics and Space Administration*—hearings on S. 720, an administration bill, are underway in the Senate Committee on Aeronautical and Space Sciences. The legislation is expected to be reported to the Senate in early May. Markup of the administration bill, H.R. 7109, is underway in the House Science and Astronautics Committee.

*National Science Foundation*—the House Science and Astronautics Committee concluded hearings on H.R. 4743 on April 7.

*Peace Corps*—no draft legislation has been received. Reorganization Plan No. 1 of 1971 to reorganize certain volunteer programs, including the Peace Corps, was transmitted to Congress March 24.

*Pollution abatement legislation*—a Senate Public Works Subcommittee has been holding hearings on a number of measures, including administration proposals.

*Saline water*—a Senate Interior Subcommittee held a hearing on S. 716, the administration bill, on April 2.

*Special revenue sharing for urban community development*—draft legislation was received in the Senate April 14.

*Water resources planning*—draft legislation was received on March 16 and introduced as S. 1398.

*Welfare*—legislation originates in the House of Representatives and the House Ways and Means Committee is marking up a bill.

Mr. MANSFIELD. Mr. President, it will be noted from this insert that draft legislation for new authorizations is still awaited in several cases, or that the legislation was introduced only quite recently. Especially notable is the lack of draft proposals for billions in foreign aid. I would hope that the executive branch will expedite the drafting of the missing authorizing legislation and that, once in hand, committee chairmen responsible for fiscal year 1972 authorizations would see to it, as I am sure they will, that committee action is completed as rapidly as circumstances permit.

Thereafter, the Senate Appropriations Committee will be able to complete work on these measures. I note in this connection that under the chairmanship of the President pro tempore, Senater ELLENDER, the Appropriations Committee set to work very early this year and is moving as rapidly as it can with the preliminaries. I ask unanimous consent that a list of appropriations hearings completed, in progress, or scheduled by the Appropriations Committee be printed in the RECORD at the conclusion of this statement. The committee is now waiting for the House to complete action on the appropriations bills before final preparation of these measures for the Senate floor.

In the end, under the constitutional tradition, the Senate does not act on appropriations legislation until the House has sent the bills here. As of April 14, two and a half months from the end of the fiscal year, only one out of 13 major appropriations bills has even reached the Senate. That is said not in criticism of the House which, I am sure, is doing its best nor even of the executive branch, but rather to emphasize that which is largely at fault in this situation—the antiquated concept of the fiscal year and the ineffective procedures in all branches which flow therefrom. It seems to me that a fiscal year which begins, out of the blue on July 1, no longer fits the needs of a government whose costs have grown from far less than a billion at the time when the Government began ending the year on June 30 to well over $200 billion a year at present. Nor does it dovetail with a 12-month Congress.

So long as this obsolete practice continues, therefore, it ought not to come as a surprise if all of the appropriations bills again do not make the fiscal year deadline and pile up for consideration in the Senate in the closing months of the year. If the Senate is to do its work conscientiously, adequate time must be available for a careful examination of these public expenditures not only in Senate committees but on the floor of the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt bearing on this matter.

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

APPROPRIATIONS (AS OF APRIL 8)

ACTION COMPLETED

1971:

Continuing Appropriations—Transportation—Public Law 92–7.

Supplemental—Labor—Public Law 92–4.

PASSED HOUSE

H.R. 7016—Education—P/H 4/7.

SENATE ACTIVITY

Overall hears. on 1972 budget concluded.

Agriculture—Subcte. hears. underway.

Defense—Subcte. hears. underway.

D.C.—Subcte. Hears. underway.

Education—Subcte. hears. underway.

Interior—Subcte. hears. underway.

Labor—HEW—Subcte. hears. underway.

Public Works—Subcte. hears. underway.

Second Supplemental—Hears. underway in various subcommittees.

HOUSE ACTIVITY

Overall hears. on 1972 budget concluded.

Agriculture—Environmental and Consumer Protection—Subcte. hears. and exces. underway.

Defense—Subcte. hears. underway.

Foreign Operations—Subcte. consideration underway.

Housing and Urban Development-Space-Science—Subcte. hears. underway.

Interior—Subcte. hears. underway.

Labor—HEW—Subcte. hears. underway.

Legislative Branch—Subcte. exces. March 29, 30 and April 1.

Military Construction—Subcte. hears. underway.

Public Works-AEC—Subcte. hears. underway.

State-Justice-Commerce-Judiciary — Subcte. hears. and exces. underway.

Transportation—Subcte. hears. underway.

Treasury-Post Office—Subcte. hears. and exces. underway.

Mr. SCOTT. Mr. President, the distinguished majority leader has, quite properly, pointed out the importance of Congress accomplishing the legislation necessary to the Nation's welfare.

I applaud what he has said and I agree with it.

I think the fiscal year is obsolete as against the calendar year.

We are dealing with 2 years' problems every year instead of 1 and we always deal with them belatedly.

I understand that the Appropriations Committee is doing whatever it can on a certain number of these bills, even though they have not yet come over from the other body. While they cannot act definitively, I understand, I believe, and I hope that they will do as much as can be done out of our past expertise because we know what agencies will be asking for funds and we have some fairly reliable evidence of how much that is and how much we think we shall allow.

So that the further this committee can go before it rceives the actual legislation from the House, the better.

As the distinguished majority leader knows, he and I have discussed expediting committee business a number of dif-

ferent times and I have mentioned one. I am sure that he agrees we should keep in close touch with the chairmen and the ranking members of committees to see what legislation can be brought forth in a timely and expeditious fashion.

The administration has sent up far more legislation than can be dealt with, perhaps, in these early months; certainly more than has yet been dealt with. The President has sent up all of his specific revenue-sharing proposals, I believe—if the education one has been included. The health bill will be coming up shortly with the welfare bill, of course, and other revenue measures are pending in the other body. There is also a considerable body of recommended legislation.

I hope that the administration will take note of the distinguished majority leader's suggestions as regards foreign aid legislation, for example. I believe that by working closely together and attending to business, we can do a good job.

I think we ought to consider the Magnuson proposal that would divide the year and dispose of authorizations in one part of the year and the appropriations in the other. I believe that we ought to change the fiscal procedure to the calendar year.

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

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, I am in full accord with the remarks made by the distinguished minority leader. As he so aptly points out, we can do nothing in the area of effecting legislation on authorizations or appropriations until the other body acts.

We both think they are doing the best they possibly can—at least the committees are. However, as far as the Senate is concerned, we are held back because only when they complete their work, report their proposals, and have them passed by the House itself, can we get down to work.

I would hope, along with the distinguished minority leader, that the Magnuson proposal would be given consideration expeditiously.

## COMMITTEE MEETINGS DURING SENATE SESSION TODAY

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

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

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized at this time for not to exceed 15 minutes.

## LACK OF UNIFORM, NATIONWIDE PROPOSAL AGAINST DISCRIMINATION IN PUBLIC SCHOOLS

Mr. ALLEN. Mr. President, the distinguished Senator from Mississippi (Mr. STENNIS), has ably documented in the CONGRESSIONAL RECORD, April 14, 1971, page 10417, an appalling example of inaction by U.S. courts, the Attorney General, and the Department of Health, Education, and Welfare in their refusal to adopt a uniform, nationwide policy against discrimination in public schools as mandated by title VI of the Civil Rights Act of 1964.

In Southern States these agencies literally stomp public schools out of existence, close them down, and scatter the children and teachers of these schools all over the countryside. This is the bulldozer approach to compulsory integration of schools used in the South. This approach is defended in U.S. courts by civil rights zealots in the employ of the U.S. Attorney General. Finally the approach is implemented by U.S. district courts and U.S. circuit courts of appeal, armed with "brass knucks." The courts use an inquisitorial power to drag public school officials into court on charges of contempt of court should they fail to comply with court orders—such failure subjecting them to confiscatory fines and imprisonment without benefit of trial by jury.

In sharp contrast, these agencies of Federal Government see no evil, hear no evil, and speak no evil when it comes to racial discrimination in public schools in regions outside of the South. Segregation in schools is on the increase in New York, Boston, Washington, Philadelphia, and in an ever increasing number of school districts outside the South. This situation stimulates the courts, the Department of Justice, and the Department of Health, Education, and Welfare to nothing more than double talk to justify double standards. Mr. President, many southern Senators have strongly condemned the hypocrisy, cynicism, subterfuges, evasions, and timidity demonstrated by these agencies in their persistent refusal to apply the law against discrimination in public schools with equal emphasis and by the same methods in all regions of the Nation. I am glad to acknowledge, however, that some Senators from States in other regions have had the courage to join in the demand for a single national policy with respect to school desegregation. In the words of the distinguished Senator from Connecticut (Mr. RIBICOFF), who is on the floor at this time, they recognize that double standards are employed and sincerely deplore the "monumental hypocrisy" reflected in the unjust and discriminatory enforcement of title VI of the Civil Rights Act of 1964.

Mr. President, in this connection, the distinguished Senator from Connecticut, (Mr. RIBICOFF), forthrightly advocates a national policy for desegregating our schools. In an interview which appeared in the Washington Star, Sunday, April 18, 1971, he announced plans to effect such a policy. While I reserve judgment on the merits of Senator RIBICOFF's proposals, I do commend him for his stand in favor of a single national school desegregation policy, and I request unanimous consent that the interview be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. ALLEN. Mr. President, many members of Congress are fed up with this "monumental hypocrisy," and they are fed up with the inability or unwillingness of the U.S. Supreme Court, confounded and confused by its own Court-created chaos, to point the way to a constitutionally acceptable national school desegregation policy. The Court has had public school systems in the South under its thumb for nearly 17 years. But not once in that time has it provided a definitive statement of what the Constitution does or does not require with respect to the desegregation process. In this connection, in Northcross against Board of Education of the Memphis, Tennessee City Schools, decided March 9, 1970—and that date is significant—Chief Justice Burger said:

> As soon as possible, however, we ought to resolve some of the basic practical problems when they are appropriately presented including *whether, as a constitutional matter, any particular racial balance must be achieved in the schools; to what extent school districts and zones may or must be altered as a constitutional matter; and to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court.* (Emphasis supplied.)

These are the three things that Chief Justice Burger says have not been decided and ought to be decided. These questions were not decided March 9, 1970, and they are not decided on April 19, 1971, more than 1 year thereafter. In other words, the Chief Justice of the United States is saying that the Supreme Court after 16 years of fumbling with these important questions, still has not decided: First, Whether any particular racial balance must be achieved in the schools; second, to what extent school districts and zones may or must be altered as a constitutional matter; and third, to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court.

Yet, we find U.S. district courts and U.S. circuit courts of appeal approving and implementing plans of HEW, or devising plans of their own, putting into effect all three of these procedures, not one of which has been ruled on by the Supreme Court, according to the Chief Justice himself.

Instead of answering hard questions, the Court has preoccupied itself with psychological abstractions, and sociological experimentation with masses of innocent schoolchildren. But even the experts in these fields do not agree as to whether or not there is any real educational or social value to anyone in merely mixing bodies in public schools.

One leading school of thought contends that compulsory racial integration of public schools, as ordained by the revised and edited Constitution of the Warren court, is authority for compulsory integration of schools by "social classes" and not necessarily by races. Another school of thought on this subject contends that racial balance in public schools is an education panacea and is authorized by the Warren court edition of the Constitution.

But one thing is certain, the Department of Health, Education, and Welfare and the Department of Justice and U.S. district courts and U.S. circuit courts of appeal in the South have opted for racial balance without waiting for the Supreme

Court to decide, in the words of Chief Justice Berger, "whether or not any particular racial balance must be achieved in the schools."

It is equally clear that these agencies will stop at nothing to achieve their preconceived, unfounded and unproven conclusions with respect to "racial balance." They willfully, wantonly, and callously proceed with the hideous business of sacrificing a generation of innocent schoolchildren in the South on the altar of racial balance Socialist dogma. And racial balance is Socialist dogma, and it is a palpable absurdity.

Commonsense dictates that the Constitution of the United States does not require racial balance in public schools in the South, or anywhere else for that matter. It is not required by the Constitution. It is prohibited by acts of Congress. It is not required even by international law as interpreted by eminent Socialists.

In this connection, the International Commission of Jurists made an in-depth study of racial discrimination at the request of the Government of British Guiana. The Commission had this to say:

*We are of the opinion that it is neither possible nor desirable to fix such an absolute standard of racial participation.* It is not required by the existing Constitution of British Guiana or by international law. (Emphasis added.)

*We are convinced that any attempt to fix an absolute standard of racial participation in the public services would lead to arbitrary procedures which would, in the long run, retard racial harmony in the community.* (Emphasis added.)

We in the South want to know why, if racial balance is a panacea for schoolchildren in the South—why is it not also a panacea for schoolchildren in all regions of the Nation?

If closing of public schools is essential to achieve racial balance in the South—why is it not also essential in other regions of the Nation where a greater degree of segregation exists?

If massive crosstown busing is justified as a means of achieving racial balance in the southern schools, why is massive busing not required in other regions of the Nation?

After all, the Brown decision—1954—was based on the proposition that segregated education is inferior education and therefore segregated education violated the equal protection clause of the 14th amendment—not merely in the Southern States, but everywhere in the United States.

Is it a wonder that many blacks are skeptical when they hear liberals expound on the supposed distinction between de facto and de jure segregation as an excuse to perpetuate segregated education in their own backyards, even though it is said to be inferior.

Mr. President, the people of the South would like to feel that the Supreme Court knows and that Congress knows that the War Between the States ended more than 100 years ago and that the tragic era of Reconstruction ended more than 95 years ago. They would like to feel that Southern States have been accepted back into the Union and at this late date they would like to know that the same Federal desegregation policy applied outside of the South will be applied in the South.

Mr. President, the Stennis amendment, which is to be offered to S. 1557, seeks to require the formulation and application of such a national school policy. It should be approved by all Americans who feel that the United States, in the words of the Chaplain in his prayer, is truly one Nation under God.

Mr. President, the people of the South have a right to demand uniform application of the law in all sections and all regions of the Nation.

Nevertheless, we are not going to have a uniform policy or uniform method of enforcement unless and until the Supreme Court finds the courage or the energy to tackle the three questions posed by Chief Justice Burger.

So long as the Supreme Court drags its feet on these hard questions, it is alienating public support of education and contributing to the destruction of public education in the South.

Furthermore, this foot dragging encourages leftwing zealots in the Department of Health, Education, and Welfare to persist in their degradation of helpless schoolchildren of the South. It encourages the adored "little statesmen and philosophers and divines" in the words of Emerson, to abandon the problems of increasing segregation, filth, crime, decadence, corruption in their own backyards and join the army of Shermanites who are now destroying the public schools in the South.

Mr. President, we in the South have had it! So long as the Supreme Court shirks its responsibility to consult its stone tablet of revealed law and refuses to tell the people what the law is and what national policy shall be enforced uniformly—it will continue to justify our condemnation.

EXHIBIT 1

[From the Washington Star, Apr. 18, 1971]

NATIONAL INTEGRATION PLANS TO BE PRESSED BY RIBICOFF

Fourteen months ago, Sen. Abraham A. Ribicoff was roundly accused by his liberal colleagues of aiding and abetting Southern strategists.

The Connecticut Democrat had voted for an amendment sponsored by Mississippi Sen. John Stennis requiring that the North and the West subscribe to the same standard for desegregating schools that now applies to the South.

The Connecticut Democrat, who often defies convenient political labels, has not changed his views on the Stennis amendment as the Senate prepares to begin tomorrow what could be a major debate on the desegregation of schools and the entire society. But he has come up with a couple amendments that may make those same liberal critics of 14 months ago a bit uneasy.

PAIN IN THE NECK

"The greatest pain in the neck are the liberals," the senator said in an interview yesterday. "What do they favor? I favor a national policy for desegregating our schools and our neighborhoods and I'm for the Stennis amendment because there should be a national policy.

"I don't care what Stennis' reasons are; they don't have to be my reasons," he continued. "The question is, once you set a national policy, how do you go about implementing it? That's where my amendments come in."

Ribicoff's amendments deal with integrating schools and housing in the suburbs.

The school amendment would give combined city and suburb metropolitan areas up to 10 years to work out a plan through placement of new schools, rezoning attendance areas, busing or any other means that would integrate schools in their generally white suburbs.

FORMULA UNDER FIRE

The Ribicoff formula—already attacked as a racial balance scheme—would require that each school in suburbs and cities have an enrollment of minority children equal to at least one-half the minority percentage for their entire metropolitan area.

In the Washington area, for example, this would mean that each suburban school would have to enroll at least 15 percent minority children, since the area-wide percentage of minority children—including Washington—equals about 30 percent.

Ribicoff's housing amendment would require all suburban communities to provide housing for all low and moderate income workers before construction or expansion of any state or federal facility or a private business with government contracts and 50 or more employees.

Race is not mentioned specifically in the housing amendment, although it is presumed that minorities would benefit the most from its provision.

While the desegregation bill stands a good chance for passage, and Stennis' amendment—which passed 56–36 in the Senate last year, then was watered down in conference—also is likely to be approved, Ribicoff's measures would appear to be years away from acceptance.

DUCKED RESPONSIBILITY

"I've been in this business a long time," he said yesterday, "and I know it generally takes five years for an idea to evolve. But, I don't think we can wait five years for this one."

The senator added:

"Both the President and the Congress have ducked their responsibility for dealing with Northern school segregation and put the burden on the Supreme Court. The President and the Attorney General (John Mitchell) have no inclination to suggest a remedy because they are unwilling to face the political consequences. They believe—and they may be right—that a great majority of the people don't want black and white children going to schools together."

Ribicoff cited recent figures issued by the Department of Health, Education and Welfare showing that the South in the last two years has more than doubled the percentage of its black children attending majority white schools, while the North and West have stayed at about the same level.

The South, in fact, now has a greater percentage of black children in integrated schools, 38.1 percent, than the North and West with 27.7 percent.

The Senator also pointed to figures from the 1970 census showing that in the North and South major cities are rapidly increasing their minority populations, while suburbs are generally getting whiter.

"It's just plain bull to say nothing will happen if we have a national school desegregation standard." the senator said. "Desegregation is happening now in the South, but not in the North.

"Look," he added, "I know all about Northern hypocrisy, because I'm a part of it myself. The Northern liberal always thinks its easy to solve something 1,500 miles away and points self-righteously at the evil Southern segregationist.

TAKEN 17 YEARS

"After Brown versus the Board of Education (the 1954 Supreme Court desegregation

decision) some people suggested integrating a grade at a time, which would take about 12 years," the senator added. "But all the liberals yelled Jeez, we can't wait that long. Now, it's taken 17 years to get where we are today.

"The question is are we going to let the whole nation go the way of Newar or Washington, D.C.? Is that healthy?" the senator asked. "It's going to reach the stage where blacks and whites will send ambassadors to each other over their borders. We are rapidly reaching a state of national apartheid."

Ribicoff said he was not opposed to black majority or dominated cities, saying it was an inevitable development in some urban areas and that his amendments would have little effect on desegragating inner cities.

TAKE JOBS WITH THEM

But, he added, "It's not just a question of a city being black. It's the fact that when the whites move out, they take jobs with them and the economic base. It's the same in West Virginia or Appalachia where better off whites leave and leave poor whites behind."

But beyond economics, Ribicoff sees a loss of what he calls the "mixture and fluidity of society which has made America great." He reached back into his boyhood in the depressed city of New Britain, Conn., for an example:

"I grew up very poor. Literally and figuratively we lived across the railroad tracks. In fact, there wasn't a place you could go—schools, jobs, what have you—without having to cross the tracks. But you could cross the tracks and you went to school with kids who were Catholics, Protestants and Jews, Poles, Irish, sons of workers or bank presidents."

"That's what my amendments are all about, trying to reunite this country before it's too late," he continued. "I think every candidate for the presidency should take a stand on this issue now, and that includes Nixon. There's no issue—be it ecology, transporation, health—as important as this. The question here is whether our society rises or falls."—JOHN MATTHEWS

## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the transaction of routine morning business for not to exceed 30 minutes, will commence, with speeches limited to 3 minutes.

## WAIVER OF THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the call of the calendar under rule VIII of the Standing Rules of the Senate be waived.

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

## ORDER FOR RECOGNITION OF SENATOR HUGHES ON TUESDAY AND THURSDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Iowa (Mr. HUGHES) be recognized for not to exceed 15 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I make the same request with respect to Thursday morning next.

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

## DEFECTIVE C–5A'S SHOULD BE RECALLED

Mr. PROXMIRE. Mr. President, on the basis of a GAO staff study made available to me, it is clear that the Air Force has knowingly accepted delivery of defective C–5A's that cannot perform their tactical mission.

All the C–5A's should be returned to the Lockheed Corp. for correction of deficiencies. Meanwhile the Pentagon must end the practice of accepting weapons that do not work or which fail to meet their performance specifications.

Mr. President, let me repeat: On the basis of the GAO study it is clear that the Air Force has been accepting delivery of defective C–5A cargo planes.

The Air Force has been accepting C–5A's knowing they are deficient and knowing that they cannot perform their tactical mission.

The deficiencies are so serious that the Defense Department is unable to determine until sometime in 1973 whether this plane will ever meet all of its performance specifications. Yet, the Air Force is accepting C–5A's which do not meet them now.

I find it absolutely disgraceful that the Pentagon has condoned the shoddy workmanship, poor performance, and mismanagement that is going into the C–5A program.

The C–5A's that have been delivered and that are now being used by the Air Force are riddled with major deficiencies in the landing gear, wings, and avionics.

A review by the General Accounting Office of the first 15 operational aircraft accepted by the Air Force revealed an average 127 unresolved deficiencies per aircraft and confirmed the assertions made over a year ago by Representative William Moorhead and myself that C–5A performance was being degraded.

The landing gear, which according to enthusiasts was supposed to allow the C–5A to kneel down like a giant camel for unloading, has experienced so many malfunctions and required so many engineering changes that it is the most troublesome system on the aircraft. In a 2-month period last year, over 1,400 maintenance man-hours were necessary to maintain the landing gear of three C–5A's.

The braking system creates a drag on the aircraft, decreases the climb, and may restrict the payload. The payload has already been restricted to about 80 percent of capacity.

One of the principal claims in behalf of this program was that C–5A's would be able to take off from and land on unimproved and rough runways. This capability does not exist. The C–5A has been restricted to hard surface runways.

The problem of the wing crack has still not been solved. The modifications made necessary after the test failures 2 years ago have themselves caused new critical fatigue conditions.

There is now a real possibility that all delivered C–5A's will require further modification of the wing structure, or that operational capability will be degraded, or both.

The automatic flight control system is not yet fully operational.

Because the automatic throttle system is not operational, the Air Force has instructed field commanders not to use it.

The radar system is not fully operational and will limit the C–5A from performing low-level missions under adverse weather conditions, or night operations.

The radar altimeter does not possess the required accuracy below 100 feet.

The navigational equipment is not considered reliable.

The aerial refueling system cannot be used.

The evidence is piling up that the C–5A is a lemon. The Air Force's acceptance of at least 15 defective aircraft is inexcusable.

What we are witnessing is the final act in the three-part tragedy of yet another defense contract.

In case after case, major weapons programs have been loaded down with a trio of failures due to contractor underperformance and bureaucratic mismanagement. These are large cost overruns, technical failures, and schedule delays.

Two and a half years ago when the $2 billion cost overrun was disclosed before our committee, the Air Force assured everyone that the delivery schedule was still on time and that actual performance would exceed the original expectations.

Soon after these assurances were given, the first schedule delay was announced. At present the C–5A is seriously behind the original schedule.

Now the evidence is conclusive that the C–5A's already delivered cannot perform their intended tactical mission, that they are defective, and that the defects may not be correctable.

The Air Force ought to be instructed to return the defective C–5A's to the manufacturer.

The Department of Defense should be prohibited from accepting delivery of weapons that do not work in accordance with performance specifications and that cannot perform their missions.

In my judgment the C–5A is at least as unsafe and unreliable as the thousands of automobiles that have had to be recalled because of deficiencies in engineering and construction. The C–5A ought to be recalled and the contractor should have to bear the costs of repairs and modifications.

I ask unanimous consent that key excerpts from the GAO staff study pertaining to the performance specifications of the C–5A be printed in the RECORD.

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

STAFF STUDY ON THE C–5A WEAPON SYSTEM

(NOTE.—This document is essentially a working paper prepared by the General Accounting Office staff for their own use in preparing the report to Congress issued on March 18, 1971 (B–163058). No formal comments on the contents have been obtained from the Department of Defense or other agencies.)

SUMMARY C–5A WEAPON SYSTEM

*System description and status*

The C–5A is an aircraft designed to provide a long-range airlift capability at high

subsonic speeds. The aircraft is to be capable of transporting combat and support units, military supplies, and items of outsized equipment. Two squadrons of C–5As are operational with regularly scheduled airlift missions operating within the United States and overseas.

*Performance*

As of December 31, 1970, the Air Force anticipated that the C–5A aircraft will weigh some 4,500 pounds more than anticipated in the development estimate. The Air Force has indicated that the aircraft meets or exceeds all of the flight performance requirements (i.e., range, speed, altitude and landing and take-off distance) of the contract.

Air Force practices in accepting aircraft differ from the practices of commercial airlines. In the case of commercial airlines, we have been advised that they do not accept aircraft having performance restrictions. However, the Air Force is accepting C–5A aircraft with significant deficiencies. For example, existing deficiencies restrict the aircraft to performance of its basic cargo mission in that it cannot perform its tactical mission until such time certain deficiencies are corrected.

Final determination of whether the aircraft will eventually meet all of its performance specifications cannot be made until system testing is completed in 1973.

*Cost*

Total estimated cost of the program as reported in the December 31, 1970, Selected Acquisition Report (SAR), was $4,670.3 million (Development, $1,029.2; Procurement, $3,623.5; construction, $17.6) less $200 million assuming that the terms of the fixed loss settlement are agreed to. This would represent a unit cost for the 81 C–5As of $55.2 million. The SAR also identifies additional systems costs of $339.5 million for such items as modifications and replenishment spares which brings the total program cost to $4,809.8 million or a total cost of $59.4 million each.

Funds programmed as of December 31, 1970, were:

| | Million |
|---|---|
| Development | $1,003.2 |
| Procurement | 3,005.5 |
| Construction | 17.6 |
| Total | 4,026.3 |

In January 1969, the Air Force exercised the run B option for additional C–5A aircraft, which otherwise would have expired. Subsequently, a dispute arose over the number of aircraft included in the option since the number of aircraft procured under this option coupled with a repricing formula in the contract would allow Lockheed to make up for losses suffered on the basic contract. The Air Force contended that the option was exercised for 23 aircraft, but Lockheed contended the option was exercised for 57 aircraft. As a result, Lockheed filed an appeal to the Armed Services Board of Contact Appeals.

Subsequent to the completion of our review on February 1, 1971, Lockheed announced that it had agreed to accept a DOD proposal for $200 million fixed loss and to cancel all outstanding contract disputes on its C–5A contract. Under this fixed loss proposal, Lockheed would not be reimbursed for those costs listed in Public Law 91–441. GAO reported to the Congress on the Financial Capability of Lockheed Aircraft Corporation to Produce C–5A Aircraft under this arrangement in April 1971.

The December 31, 1970, cost figures cited above takes into consideration the effects of this pending agreement. This SAR data was not reviewed by GAO. Our review of SAR data was as of June 30, 1970, and reported in the individual staff review.

The magnitude of cost growth on the C–5A program is significant. The total program and additional procurement system cost reflected in the December 31, 1970, SAR was $4,909.8 million for 81 aircraft compared to the initial planning estimate (October 1964) of $3,423.0 million for 120 aircraft.

*Selected acquisition reporting*

Our analysis of the Air Force's SARs on the C–5A Aircraft disclosed that the reports have not provided an accurate picture of the status of the C–5A program because relevant matters affecting aircraft performance have been omitted. For example:

The June 1970 SAR does not disclose any of the aircraft's technical problems, such as inoperable avionics subsystems, landing gear deficiencies, wing design deficiency and an 80 percent operational restriction; or show that a C–5A was severely damaged during the year because of a fire at Palmdale, California.

The SAR did not show all the system's major operational and technical characteristics or expected values and effectiveness, thus an evaluation of capability of the C–5A to satisfy its mission objectives is limited.

We believe that, without the data discussed above, the SAR does not present an accurate picture of the status of the system and that its usefulness as a management tool is limited because relevant data has not been fully disclosed. Similar deficiencies were noted on the December 31, 1970, SAR.

*Program milestones*

The Initial Operational Capability (IOC) was delayed 9 months, from December 1969 to September 1970 because of manufacturing problems. On June 6, 1970, the first operational squadron of the Military Airlift Command received its first C–5A aircraft.

Subsequent to June 30, 1970, the rate of production was changed from 3 to 2 aircraft per month which will result in the delivery date of the 81st production aircraft being revised from July 1972 to February 1973. Initially the 120th aircraft was planned for delivery in April 1972.

*Matters for consideration*

The potential impact of difficulties being experienced by Lockheed with its commercial aircraft program, the L–1011, should also be considered in appraising this procurement.

CHAPTER 3—DEFICIENCIES IN 15 ACCEPTED C–5A AIRCRAFT

The Air Force is accepting C–5A aircraft with major deficiencies, in the landing gear, wings and avionics. These deficiencies have restricted the C–5A to performance of its basic cargo mission only. The C–5A cannot perform its tactical mission until certain deficiencies are corrected. These deficiencies on the C–5A are attributable to incomplete development and testing.

Our review of the condition of the first 15 operational C–5A aircraft accepted by the Air Force showed that they were accepted with an average of 130 agreed-upon deficiencies and 127 unresolved deficiencies per aircraft. The C–5A contract requires Lockheed to correct these deficiencies at no additional cost to the Government. About $6.2 million was withheld from payments to Lockheed for the correction of deficiencies on the first 15 operational aircraft. We believe this amount was insufficient because the estimates prepared by Lockheed omitted certain items. Also, we noted that the Air Force generally accepted Lockheed's estimated cost of correcting the deficiencies without adequate review and evaulation.

A brief summary of the nature and status of some of the more significant deficiencies is presented below:

*Landing gear*

The C–5A is equipped with a highly complex tricycle-type landing gear which was designed to operate on unimproved as well as conventional runways; take off and land in crosswinds by changing the position of the gear; and kneel in three modes to accommodate various types of cargo operations.

Records show that significant problems have been experienced with the landing gear requiring many engineering changes. The Military Airlift Command (MAC) has also experienced many landing gear malfunctions. Maintenance data show that the landing gear is the most troublesome system on the aircraft.

Many landing gear parts taken from stock and tested as well as parts installed on the aircraft failed. A C–5 Joint Test Force reported that nose landing gear kneeling system failures are serious, persistent, and cause serious damage to components and structure.

An inordinate number of maintenance man-hours (1,429) were required at Charleston Air Force Base during June and July 1970 to maintain the landing gear of three C–5A's.

The anti-rotation braking system was deactivated because it operated inadvertently on the ground, damaging the tires. This system was intended to eliminate undesirable gyroscopic effects during the retraction of the gear by braking the wheels to a stop after lift-off. To preclude the gyroscopic effect, the gear has to be left extended for one minute after takeoff; however, this is undesirable because it creates a drag on the aircraft, decreases rate of climb, and may restrict the payload. An engineering change is being programmed to correct this problem.

The cylinder used to power the landing gear rotation during emergency extension is undersize and will not rotate the bogie at airspeeds above 160 knots. An engineering change is being programmed to correct this deficiency.

The crosswind landing system is used to pre-position the landing gear as much as 20 degrees to the right or left to facilitate landings in crosswinds; however, use of this system is restricted to 10-degree settings until completion of further testing.

Although the landing gear was designed to permit landings and takeoffs from forward area runways (matted or bare soil), the aircraft have been restricted to hard surface runways. Flight tests on unimproved runways caused severe damage to jet engines, matted runways, and the aircraft. The tests were subsequently discontinued.

*Wing*

During static testing of a C–5A wing in July 1969, a crack occurred at approximately 125 percent of the load limit. This necessitated modification of the wings on aircraft already accepted by the Air Force to ensure that the wings would sustain an ultimate load equal to 150 percent of the design limit without failure to the most critical wing loading condition.

Approximately 1 year later, June 18, 1970, the Air Force Plant Representative (AFPRO) advised Lockheed that data gathered in static tests did not provide positive evidence that the wing structure would eventually reach ultimate loading for all conditions scheduled. In some areas, critical fatigue conditions have been induced by the modifications themselves. He further stated that the fatigue test programs were progressing at an alarmingly slow rate.

At about the same time, Lockheed advised the SPO that a lift distribution control system (LDCS) was being developed for incorporation in the C–5A aircraft because prior analyses and tests indicated that to meet specification requirements, further reduction in wing upbending near the fuselage was necessary. Lockheeds' rough estimate of the cost of this was $8.2 million.

In August 1970, the SPO informed Lockheed that a structural analysis of the C–5A

wing had shown that the original design strength would not be realized because of the redistribution of internal loads as determined by the static test and because of the inability to obtain optimum tensile strength in the built-up structure. The SPO further stated that, with or without the LDCS, the results of full scale test, strain gage measurement, component tests, and analysis indicate the possibility of a very serious reduction in fatigue resistance which would require modification to delivered aircraft, serious degradation of operational capability, or both.

In view of this situation, the SPO requested that Lockheed investigate the feasibility of making structural modifications to production aircraft at approximately aircraft No. 60 and up. These modifications could increase static strength and fatigue resistance and make the LDCS unnecessary. At the time of our review in December 1970, Lockheed was developing and testing the LDCS; however, no decision had been made to incorporate it into production aircraft.

The aircraft accepted by the Air Force are restricted to a 174,000 pound payload until completion of static tests and 100-percent flight demonstration. An Air Force program review shows this restriction will not be lifted until about December 1971.

*Attitude and heading reference unit*

The C–5A aircraft is equipped with two attitude and heading reference units (AHRU's) capable of furnishing both heading and attitude information to the horizontal situation indicator, the bearing-distance-heading indicator, and attitude director indicator (ADI). Pilots rely heavily on the ADI when flying in bad weather because it indicates the attitude of the aircraft in relation to the ground.

Reports from MAC wings show that gyros in the AHRU do not function properly and that electronic circuits were malfunctioning. Air Force officials expressed concern over the low reliability of the AHRU because it decreases mission performance and consumes vital spare assets. Until system reliability is improved, a restriction has been placed on takeoffs and landings when the cloud cover (ceiling) is less than 500 feet and 1-mile visibility. This limits use of the aircraft in instrument weather conditions and night operations when AHRU problems occur. The cost of providing backup information to improve reliability of the AHRU's was roughly estimated at $6.6 million.

*Air turbine motors*

Air turbine motors (ATM's) drive two pumps incorporated in the C–5A hydraulic system. These pumps provide auxiliary power for hydraulic subsystems which are primarily used for operation of systems while the aircraft is on the ground.

A fire occurred in aircraft No. 11 which was associated with the ATM. Foreign material in a hydraulic line caused a check valve to remain open. This created a chain of events which resulted in the malfunctioning of the ATM pumps which, in turn, caused the pump case to crack and spray hydraulic fluid on the hot ATM. The resulting fire could not be readily extinguished because the ATM was located in an inaccessible area in the belly of the aircraft. The Air Force is at present evaluating the feasibility and cost of repair as an alternative to salvage of the aircraft.

Immediately thereafter, operating restrictions were placed on the use of the ATM's installed in C–5A aircraft pending the relocation of the ATM's to a more accessible area. We noted that, although the Air Force had made a similar recommendation to Lockheed in a critical design review of the ATM prior to the fire, Lockheed rejected the Air Force recommendation on the basis that all safety requirements had been met.

*Automatic flight control system*

The automatic flight control system (AFCS) consists of four subsystems which provide automatic throttle control, assistance in moving the aileron and elevator flight control cables, stability augmentation (yaw-lateral-pitch), and automatic flight path control (autopilot). Flight path control functions, utilized by the AFCS, are displayed to the pilot for monitoring.

Many of these systems and subsystems are not operational or are not in the final and optimum configuration. For example, the stability augmentation system assists the pilot in pulling control cables which adjust flight control surfaces. The stability augmentation system was intended to eliminate flight deviation in three axes—pitch, roll, and yaw. According to Lockheed officials, these systems presently installed in aircraft accepted by the Air Force are safe and operable but are not in their optimum configuration. The optimum configuration has been developed and passed flight and quality testing; however, it will not be included in production aircraft until the entire AFCS has completed reliability testing.

The automatic throttle subsystem provides automatic control of the throttles on the C–5A during climb, descent, cruise, and landing. This system is presently not operational on the C–5A aircraft because of problems encountered with the auto-throttle computers. The Air Force issued a safety supplement to field commanders prohibiting its use. Although this system is installed on aircraft accepted by the Air Force, it is still undergoing development and production is not expected until December 1971.

The basic autopilot system provides automatic control of the aircraft during extended periods of flight. It provides automatic flight path control for basic flight conditions, en route navigation, low altitude terrain following, instrument landing system approach and landing, go-around, and terminal navigation-using radar.

According to a Lockheed official, the autopilot is limited to operation in the basic altitude and heading hold, heading select, and altitude hold modes. Approximately 75 percent of the autopilot is developed and testing should be completed in May 1971. Lockheed's records show that the final configuration of the autopilot will not be available for production aircraft until December 1971.

*Multi-mode radar*

The multi-mode radar consists of two separate and independent radars which are used to perform several different functions or modes. The modes are weather mapping, ground mapping, contour mapping, terrain following/terrain avoidance, beacon identification, and radar approach for landing without ground-based aids. Only the ground mapping, weather mapping, and beacon modes were operational on aircraft being accepted. The nonoperational modes are still in the development stage. Lockheed estimates that these modes will not be operational until after completion of tactical mission testing in July 1971. The nonoperational modes will limit the C–5A's capability to perform low-level missions under adverse weather conditions, or night operations and make landings on unimproved runways without dependence on ground-based aids.

An official at Charleston Air Force Base said that the restrictions upon use of several modes of the radar presently have no effect on operations. However, these modes will be indispensable in future tactical training and operations.

*Radar altimeter*

The C–5A is equipped with two low altitude radar altimeter systems intended to provide an accurate indication of airplane altitude above the ground. They provide the primary sensing signals to the all-weather landing system which automatically flares the aircraft—changes its altitude—during an automatic landing. They are also important when used in conjunction with the terrain-following mode of the multi-mode radar for low-level missions.

The radar altimeter systems installed on C–5A aircraft accepted from Lockheed are operational and can be relied upon for actual altitude information above 100 feet. They cannot, however be used with the all-weather landing system or the terrain-following mode of the multi-mode radar because they do not possess the required accuracy below 100 feet. We were advised that the radar altimeter is still undergoing tests.

*Inertial doppler navigation equipment*

The inertial doppler navigation equipment (IDNE) consists of an inertial navigation and a doppler radar system which is capable of performing its navigational role without dependence on ground aids. It navigates (provides position information) by sensing the motions of the airplane and computing the changes of positions. The system combines basic navigational capability with additional computer services for processing data from and to other airplane systems equipment to assist in guidance and control functions.

The IDNE on accepted C–5A aircraft was operable but its accuracy had not been verified. Therefore, limitations have been placed on use of this equipment until flight tests are completed by Lockheed.

Problems have been encountered with the doppler radar part of the equipment. The contract specifications for the doppler radar provide for a mean time between failures of 1,000 hours; however, a Lockheed engineer said that the current time was only 80 hours. He also stated that the inertial doppler and doppler dead reckonging modes are unreliable and are not being used.

Lockheed and MAC representatives said that limitations placed on the equipment do not limit airlift mission capability, because it is a back-up system used to verify the inertial measurement unit readings. However, failure of the inertial equipment would require the navigator to resort to the basic navigation equipment.

*Malfunction detection analysis and recording system*

The malfunction detection analysis and recording system (MADAR) was designed to assist flight crews and maintenance personnel in the detection and isolation of malfunctions in the aircraft. It also furnishes trend data related to subsystem degradation for use in prediction of impending failures.

Air Force officials at C–5A bases told us that, although MADAR on accepted C–5A aircraft was being used where possible, it was not considered reliable and its potential had not yet been achieved. They stated that MADAR and the ground processing of data was still in the development stage and the software needs updating. A C–5 Joint Test Force Progress Report showed that MADAR is among the 10 systems having the highest failure rate on the aircraft.

*Crash data position indicator recording system*

The crash data position indicator recording system records data and crew member conversations and the data is used in location and investigation of a crash. Although the system is considered essential to flight, it was not working satisfactorily on accepted aircraft because of problems with the air foil, corrosion, tape jamming, and water seepage. Lockheed and the Air Force currently believe the air foil, corrosion, tape jamming, and water seepage problems have been resolved satisfactorily. The recorder has been modified and is in the final testing stage. Reliability testing is scheduled to start in January 1971.

*Stallimeter subsystem*

The stallimeter is used to warn the pilot of an approaching stall condition of the aircraft. It is unreliable on accepted C–5A air-

craft and is not being used mainly because of system computer problems. Lockheed and Air Force officials say that this system is necessary because approaching stall conditions on larger aircraft are not as discernible as on small aircraft. The computers have been redesigned but not tested. On or about January 1971, Lockheed plans to retrofit the new stallimeters on aircrafts already delivered to the Air Force.

*Station keeping equipment*

The station keeping equipment is intended to allow a large number of aircraft to maintain desired separation from each other while in formation. It operates as a simultaneous range tracking and 360-degree screen display system. Time-sharing methods are utilized on a single transmitting frequency and permit as many as 59 aircraft, within range of each other, to fly in a single formation.

Our review showed that while this equipment was operable, its use was limited to visual flight rules. This means that it cannot be used when the need is most important—in night operations and in bad weather. At the time of our review, testing of this system was still in progress and was not scheduled for completion until January 1971.

*Aerial refueling*

An aerial refueling system has been installed on the aircraft; however, its use by MAC is prohibited pending the incorporation of engineering changes presently being programmed.

*Aircraft acceptance practices*

Air Force practices in accepting C–5A aircraft vary greatly from the practices of commercial airlines. Standard Air Force procedures and the terms of the C–5A contract permit aircraft to be accepted which are incomplete, not fully tested and otherwise deficient. In the case of the C–5A the full range of intended operational use must be restricted until such time as the deficiencies are corrected and the aircraft fully tested. Commercial airlines, on the other hand, do not accept new aircraft having performance restrictions.

The Air Force and Lockheed inspect and test each C–5A aircraft as it is being manufactured and assembled so that, when final flight testing and acceptance occurs, both parties have compiled lists of important shortages, variances, and other deficiencies. When the Air Force has made its final equipment checks and flight tests of the aircraft, a formal inspection and receiving report (Form DD–250) is prepared officially accepting the aircraft. A list of outstanding deficiencies is appended to the receiving report. The contract requires Lockheed to correct the deficiencies within a reasonable time and requires the administrative contracing officer to withhold from payments for each aircraft an equitable amount pending correction of deficiencies. The costs of correcting deficiencies are "allowable" costs. In this sense, correction of deficiencies is at additional cost to the Government until the ceiling price of the contract is reached. No adjustment of target or ceiling prices is made, however, as a result of requiring correction of deficiencies.

Air Force acceptance procedures provide that in some cases it may be necessary or advantageous to the Government to accept items which are incomplete, not fully tested, or do not meet contract requirements. Acceptance in these circumstances may be made only when specifically authorized by the procuring contracting officer.

The SPO acknowledged that C–5A aircraft are accepted with known deficiencies and limited tactical capability. He stated that the aircraft are being developed under the concurrency concept and the aircraft are accepted if they have the capability to perform the basic mission of carrying bulk cargo to off-shore stations on a scheduled basis. In this sense each aircraft is accepted "ready for service." He further stated that, to achieve the complete tactical capabilities of the aircraft, however, additional development, modification and testing will be necessary.

In our discussion of acceptance practices with two major airlines, we were told that aircraft accepted from the manufacturer are ready for passenger service. We were also told that most of the deficiencies noted during factory inspections and flight testing were corrected prior to final acceptance. Aircraft are not accepted if all systems are not fully operational.

The commercial airlines' contracts with the manufacturer are fixed-price type, provide for in-process inspection by the airlines, but do not provide for acceptance with major deficiencies or for the withholding of payments to cover such deficiencies.

Generally, the airlines had relatively few resident inspectors as compared with the Air Force on the C–5A and, for quality assurance, relied heavily upon the manufacturer's own inspection service, FAA aircraft certification procedures, and warranty provisions of their contracts.

While final flight tests by commercial airlines usually revealed some minor deficiencies, such as improper decals, markings, and paint, which were accepted subject to later correction by the manufacturer, the airlines were emphatic in their position that no aircraft was accepted unless it could be placed in full service immediately.

In commenting on its acceptance practices, the Air Force noted that to have delayed acceptance of C–5A aircraft until all deficiencies were corrected would have adversely affected aircrew training, essential testing and airlift operations, all of which had been programmed to meet the initial operational capability dates. The delayed acceptance, we note, would also have had an unfavorable financial impact on Lockheed, at a time when Lockheed's financial ability to complete the program was in jeopardy. Additional costs would have been incurred by Lockheed in correcting the deficiencies with full payment of the billing price of each aircraft deferred until aircraft acceptance. Under the contemplated fixed loss contract the Air Force will bear the cost of the correction of those deficiencies ordered to be corrected by the Air Force Contracting Officer. As such, some deficiencies likely will not be corrected because of budget constraints or because the additional costs involved would be excessive in relationship to the added utility.

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## UNFAIR CRITICISM OF AMBASSADOR GODLEY AND PRESIDENT OF THE UNITED STATES

Mr. DOMINICK. Mr. President, on April 18, 1971, over "Face the Nation" and on April 19, 1971, on the "Today Show," I had the unpleasant opportunity of viewing a fellow Republican, a Congressman from California in the other body, make unfounded and totally unproven allegations which impugn the integrity of a man who has been a highly distinguished career officer in the Foreign Service for 30 years and is now Ambassador to Laos, Ambassador Godley; and then impute to the President of the United States a conscious policy of bombing unarmed and friendly Laotian villages and a conscious policy of deceiving the American public.

These unfounded and untrue allegations, made by a man who is not even a member of the Foreign Affairs Committee, the Appropriations Subcommittee on Defense, or the Armed Services Committee of the House, have been given to the American public and to the world at large as though made after a full investigation, untrue, in itself, and as though made after an official committee authorized and supported trip to Laos, also untrue.

Furthermore, they are made at the very time when the President himself has stated that negotiations on total withdrawal of American forces from Vietnam have arrived at a crucial stage in the Paris negotiations, and after the President has not only withdrawn over 50 percent of our troop levels in that theater but publicly announced, on April 7, 1971, still further withdrawals from that theater.

Obviously, anyone has the right to dissent from past and present policies of this Government, but to make charges of this nature at this time seems to me not only to be playing fast and loose with the intent of the President, who above all has endeavored to bring peace to our country, but to endanger the possibility of bringing about such peace.

Let me, Mr. President, bring up a few of the erroneous allegations which the Congressman made.

First, he pointed out that most of the refugees left their villages because of bombings in 1968 and 1969. President Nixon did not assume office until January 21, 1969, and Ambassador Godley did not assume his ambassadorship in Laos until July 12, 1969.

Second, he stated that Ambassador Sullivan had observed very closely rules of engagement which would prevent such bombings, and yet Ambassador Sullivan, who in my opinion did a fantastic job in that very difficult area of the world, was in fact in charge as Ambassador during all of 1968 and the first half of 1969.

Third, the Congressman wholly omitted from his remarks the fact that he had a lengthy interview with the Laotian governmental officials who endorsed the American assistance and who stated that their country might have been overrun by the Communist Pathet Lao and the North Vietnamese, were it not for American help.

Fourth, he wholly omitted the compliments given by his congressional colleague at a press conference in Vietnam and shortly after their visits to the refugee camp, pointing out that the refugee program was extremely well organized and run and that the fatalities and casualties were remarkably low.

The ACTING PRESIDENT pro tempore. 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 Colorado.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. DOMINICK. I thank the Senator from West Virginia.

Fifth, he failed to point out that the eastern area of Laos comprises the main supply line for the North Vietnamese in their armed invasion of three countries; namely, Laos, Cambodia, and South Vietnam.

Sixth, he refers to 700,000 refugees which he implies occurred in the last 2

years but which the Laotian Government itself states were estimates and involved relocating people under North Vietnamese and Pathet Lao attacks since 1945, some 26 years of hostile action.

Seventh, he makes the unequivocal statement that the military has misinformed Congress and the public when in fact the previous Secretary of Defense, Secretary McNamara, pointed out specifically at a White House briefing in 1967 or 1968, which I attended, the areas of Laos which were under aerial attack to curtail movement of enemy supplies and logistics through Laos to reinforce their attacks on all three countries.

Eighth, although he admitted in "Face the Nation" that he had only been in Laos for 2 days, he gave the impression that he had interviewed all the refugees, when in fact I believe he talked to some eight refugees through an interpreter, Father Mengert, who stated that were it not for the American aerial support the villages involved would have been overrun by the North Vietnamese.

My point, Mr. President, is that assertions of this nature given publicly by this Congressman are harmful to the interests not only of this country but those countries of Indochina trying to preserve their own integrity, and tend to prevent successful negotiations to bring about peace with stability in that troubled area of the world.

And to impute to President Nixon the desire to bomb unarmed and friendly villages when he has in fact withdrawn over 50 percent of our forces, brought about a cease-fire in the Middle East, initiated arms limitation talks with the Soviets, opened some form of communication with the Red Chinese, and laid out the background for complete withdrawal of armed forces from South Vietnam seems to me to be the height of political irresponsibility.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore (Mr. TUNNEY) laid before the Senate the following letters, which were referred as indicated:

NASA REPORT OF REPROGRAMING ACTION, CONSTRUCTION OF FACILITIES

A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, report of reprograming action, construction of facilities (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

WATERSHED PROTECTION AND FLOOD PREVENTION IMPROVEMENT WORKS

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, plans for works of improvement which have been prepared under the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005), and delegated to the Director of Office of Management and Budget by Executive Order No. 10654 of January 20, 1956 (with accompanying material); to the Committee on Agriculture and Forestry.

REPORT OF THE ORDERLY LIQUIDATION OF STOCKS OF AGRICULTURAL COMMODITIES HELD BY THE COMMODITY CREDIT CORPORATION AND THE EXPANSION OF MARKETS FOR SURPLUS AGRICULTURAL COMMODITIES

A letter from the Deputy Assistant Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting, pursuant to law, a report of the orderly liquidation of stocks of agricultural commodities held by the Commodity Credit Corporation and the Expansion of Markets for Surplus Agricultural Commodities (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON VALUE OF PROPERTY, SUPPLIES, AND COMMODITIES PROVIDED BY THE BERLIN MAGISTRATE

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate for the first two quarters of fiscal year 1971; to the Committee on Appropriations.

APPORTIONMENT OF FOOD STAMP PROGRAM APPROPRIATIONS

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation for the Department of Agriculture for the "Food Stamp program," Food and Nutrition Service, for the fiscal year 1971, has been apportioned on a basis indicating a need for a supplemental estimate of appropriations; to the Committee on Appropriations.

REPORT OF ORDER DISMISSING PETITION IN DOCKET NO. 27–C, BEFORE THE INDIAN CLAIMS COMMISSION

A letter from the Acting Chairman, Indian Claims Commission, reporting, pursuant to law, an order dismissing petition in The Delaware Tribe of Indians, Petitioner, vs. The United States of America, Defendant, Docket No. 27–C, before the Indian Claims Commission (with an accompanying paper); to the Committee on Appropriations.

REPORT OF THE DIRECTOR OF SELECTIVE SERVICE

A letter from the Director, Selective Service System, transmitting, pursuant to law, the semiannual report of the Director of Selective Service (with an accompanying report); to the Committee on Armed Services.

MEMORANDUM OF ANNUAL REPORT OF THE SECRETARY OF DEFENSE ON RESERVE FORCES FOR FISCAL YEAR 1971

A letter from the Deputy Assistant Secretary (Reserve Affairs), submitting a corrected page copy of the Annual Report of the Secretary of Defense on Reserve Forces for fiscal year 1971 (with an accompanying paper); to the Committee on Armed Services.

PROPOSED LEGISLATION TO EXTEND AUTHORITY OF FEDERAL RESERVE BANKS TO PURCHASE U.S. OBLIGATIONS DIRECTLY FROM THE TREASURY

A letter from the Secretary of the Treasury, submitting a draft of proposed legislation to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED HOUSING INSTITUTIONS MODERNIZATION ACT OF 1971

A letter from the Chairman, Federal Home Loan Bank Board, submitting a draft of proposed legislation to amend laws relating to savings and loan associations, to broaden their mortgage credit powers, and for other purposes (with accompanying papers; to the Committee on Banking, Housing and Urban Affairs.

PROPOSED TRANSPORTATION REVENUE SHARING ACT OF 1971

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to provide a new and improved system of Federal financial assistance to State and local governments for solving the transportation problems of the State and local governments and for improving the Nation's capacity to meet the demands of interstate commerce, and for other purposes (with accompanying papers); to the Committee on Commerce, the Committee on Banking, Housing and Urban Affairs, the Committee on Finance, and the Committee on Public Works, by unanimous consent.

REPORT OF GRANTS BASIC SCIENTIFIC RESEARCH

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report showing grants for basic scientific research made by the Department of Defense to nonprofit institutions during calendar year 1970 (with an accompanying report); to the Committee on Government Operations.

LETTERS FROM THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improved financial administration and revision of fees needed—consular services program, Department of State (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on assessment of the impact of the Teacher Corps program at the University of Miami and participating schools in south Florida, Office of Education, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

PROPOSED INDIAN FINANCING ACT OF 1971

A letter from the Assistant Secretary of the Interior, submitting a draft of proposed legislation to provide for financing and economic development of Indians and Indian organizations, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

COMMENTS OF FEDERAL AGENCIES ON LEGISLATIVE PROPOSALS FOR WATER POLLUTION CONTROL

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, comments of Federal agencies and departments on the legislative proposals of the Environmental Protection Agency for water pollution control (with accompanying papers); to the Committee on Interior and Insular Affairs.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE ATTORNEY GENERAL OF THE UNITED STATES

A letter from the Attorney General of the United States, transmitting, pursuant to law, the annual report of the Attorney General for the fiscal year 1970 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO AUTHORIZE PAYMENT OF EXPENSES OF PREPARING AND TRANSPORTING TO HIS HOME OR PLACE OF INTERMENT THE REMAINS OF A FEDERAL EMPLOYEE WHO DIES WHILE PERFORMING OFFICIAL DUTIES IN ALASKA OR HAWAII

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to amend title 5, United States Code, to authorize the payment of the expenses of preparing and transporting to his home or place of interment the remains of a Federal employee who dies while performing official duties in Alaska or Hawaii, and for other purposes (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT OF THE U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report of the U.S. Department of Health, Education, and Welfare for the fiscal year 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

WATERSHED PROTECTION AND FLOOD PREVENTION IMPROVEMENT WORK PLANS

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, submitting, pursuant to law, plans for works of improvement which have been prepared under the provisions of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005), and delegated to the Director of the Office of Management and Budget by Executive Order No. 10654 of January 20, 1956 (with accompanying material); to the Committee on Public Works.

ENVIRONMENTAL IMPACT STATEMENT—NOISE CONTROL ACT OF 1971

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Environmental Impact Statement for the Noise Control Act of 1971 (with accompanying papers); to the Committee on Public Works and the Committee on Commerce, by unanimous consent.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. TUNNEY):

A concurrent resolution of the Legislature of the State of South Carolina; to the Committee on Agriculture and Forestry:

"A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO CONTINUE PRICE SUPPORTS AND OTHER AID PROGRAMS TO TOBACCO FARMERS

"Whereas, pending legislation is now before Congress which would discontinue tobacco supports and other aid programs beginning with crops to be harvested in 1972; and

"Whereas, this has been a self-supporting program and if this legislation is enacted it would mean a tremendous loss of revenue to the Federal Government and would severely cripple this one hundred million dollar industry; and

"Whereas, tobacco has for many years been one of South Carolina's main sources of revenue and the discontinuance of these programs would bring irreparable damage to the tobacco farmers of this State, particularly the smaller growers. Now, therefore,

"Be it resolved by the House of Representatives, the Senate concurring:

"That the Congress of the United States is hereby memorialized to take such action as it deems necessary in order to continue the price supports and other aid programs to tobacco farmers.

"Be it further resolved that copies of this resolution be forwarded to each United States Senator and each member of the House of Representatives of Congress from South Carolina and to the Clerk of the United States Senate and the Clerk of the United States House of Representatives."

A joint resolution of the Assembly of the State of Wisconsin; to the Committee on Agriculture and Forestry:

"ASSEMBLY JOINT RESOLUTION 35

"Joint resolution petitioning the Honorable Clifford M. Hardin, U.S. Secretary of Agriculture, to increase the support level of manufactured milk to the maximum permissible percent of parity for the coming marketing year, beginning April 1, 1971, and memorializing Congress to increase the support levels to 100 percent of parity based on 1910–14 base levels

"Whereas, farm costs have risen at an alarming rate since the start of the current marketing year and costs in dairying have risen even more, farm wage rates being up 6.5%, interest and taxes up 8% and feed costs up 9%; and

"Whereas, the present $4.66 support level for manufactured milk has slipped to about 81% of the parity equivalent and may further decline to 80% by the end of this marketing year; and

"Whereas, if current trends continue unabated, an addition of approximately 50 cents per CWT to the present support level is needed to bring the price of manufactured milk to the 90% parity level; and

"Whereas, manufactured milk production in the 12 north central states has shown a marked decrease; and

"Whereas, this combination of increased milk production costs and reduced prices has continued the exodus from the farms of the nation thereby contributing dangerously to urban as well as rural instability; and

"Whereas, these trends have been intensified by inadequate restrictions on 'milk substitutes' insidiously masquerading as dairy products; and

"Whereas, a per capita decline of milk production threatens the health and welfare of our nation; and

"Whereas, the Agricultural Act of 1949 empowers the Secretary of Agriculture to increase the support level; now, therefore, be it

"Resolved by the assembly, the senate concurring, That this legislature respectfully petitions the Secretary of Agriculture, the Hon. Clifford M. Hardin, to raise the support level for manufactured milk for the coming marketing year as soon as possible to the maximum permissible percent of parity; and, be it further

"Resolved, That this legislature respectfully urges the Congress of the United States to enact legislation increasing the permissible support level for manufactured milk to 100% of parity based on 1910–14 base levels; and, be it further

"Resolved, That duly attested copies of this resolution be immediately transmitted to the Secretary of Agriculture, to the Secretary of the senate of the United States, the clerk of the house of representatives of the United States and to each member of the congressional delegation from Wisconsin."

A resolution of the Legislature of the Territory of Guam; to the Committee on Agriculture and Forestry:

"RESOLUTION No. 145

"Resolution relative to respectfully requesting the Congress of the United States to enact legislation necessary to constitute the University of Guam as a land grant institution

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the University of Guam affords the opportunity for higher education not only to the residents of Guam but to many others from the surrounding islands who come to the territory to complete their studies, the University thereby being central to the whole educational process in the Western Pacific; and

"Whereas, as part of its role, the University has attempted to educate not only in the traditional academic subjects but to also participate in providing the technical training needed by the potential citizens of Guam and of Micronesia, thereby playing on the scale permitted by its limited funds the traditional role a land grant institution has played in the United States; and

"Whereas, in recognition of this, the Congress in recent years has considered legislation to grant to the University of Guam official land grant status, but, unfortunately, the legislation has never been enacted, and therefore the University does not have the funds and assistance it needs to provide the technical training and assistance needed by the future citizens of Guam and the United States Trust Territory of the Pacific Islands; and

"Whereas, it is the consensus of the Legislature that one of the reasons for the present almost total dependence of the territory on imported foodstuffs is the lack of knowledge by the local farmers of modern methods of commercial tropical farming and that until the University is in a position to give this technical training as it would be if it obtained land grant status, little will be done to upgrade the quality of technology in the territory; now therefore be it

"Resolved, that the Eleventh Guam Legislature does hereby on behalf of the people of Guam respectfully request, memorialize, and petition the Congress of the United States to grant to the University of Guam land grant status; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Frank E. Moss, Member, U.S. Senate, to the Honorable Spark M. Matsunaga, Member, U.S. House of Representatives, to the Honorable Patsy T. Mink, Member, U.S. House of Representatives, to the President of the Senate, to the Speaker, House of Representatives, to the Chairman, Senate Committee on Agriculture, to the Chairman, House Committee on Agriculture, to the Chairman, Senate Committee on Interior and Insular Affairs, to the Chairman, House Committee on Interior and Insular Affairs, to the Secretary of Interior, to the Secretary on Agriculture, to the Secretary on Health, Education and Welfare, to the President, University of Guam, to the Chairman, Board of Regents, University of Guam, to Guam's Washington Representative, and to the Governor of Guam."

A resolution of the House of Representatives of the State of Oklahoma; to the Committee on Armed Services:

"HOUSE RESOLUTION No. 1019

"A resolution memorializing the President of the United States to grant a full executive pardon to Lieutenant William L. Calley, Jr., and memorializing the Congress of the United States to join in urging such Executive clemency; and directing distribution

"Whereas, the brave young sons of the greatest nation on earth have been saddened and shamed by being denied the chance even to strive for victory in a war in Vietnam and other areas of Southeast Asia, that has claimed more than 43,000 American lives in ten years of involvement in the longest armed conflict in which the United States has ever engaged; and

"Whereas, the sacrifices made by our heroic fighting men, who were so painstakingly trained in the deadly game of war, almost have been overlooked in the fierce political and ideological struggles waged by hawks and doves which have had a severe divisive

effect on the unity of the people of the United States; and

"Whereas, the conviction of Lieutenant William L. Calley, Jr., for alleged crimes committed in the Village of My Lai while under stress of extreme personal danger to himself and members of his platoon, while carrying out a mission in the war for which he had been specially trained, has shocked and stunned a large segment of the citizens of this nation and has produced fears that it will have an extremely demoralizing and damaging effect upon the men still engaged in this holocaust in Southeast Asia; and

"Whereas, it is of the utmost importance that Lieutenant Calley be freed from the charges on which he has been convicted and that the military code of justice be revised as an assurance to all personnel of our armed forces that they will not be prosecuted or be placing their own lives in jeopardy for obeying the commands of their superiors on the battlefields of war; and

"Whereas, it is deemed to be in the best interests of the people of the United States that President Richard M. Nixon be memorialized to grant a full executive pardon to Lieutenant Calley, and that the United States Congress be memorialized to join in urging such executive pardon.

"Now, therefore, be it resolved by the House of Representatives of the first session of the 33d Oklahoma Legislature:

"SECTION 1. President Richard M. Nixon is hereby memorialized to grant a full executive pardon to Lieutenant William L. Calley, Jr., for the alleged crimes for which he has been convicted by court-martial.

"SEC. 2. The United States Congress is hereby memorialized to join the House of Representatives of the Oklahoma Legislature in urging the granting of such executive pardon.

"SEC. 3. Duly authenticated copies of this Resolution shall be forwarded to the President of the United States of America, the President Pro Tempore of the United States Senate, and the Speaker of the House of Representatives of the United States Congress."

A resolution of the House of Representatives of the General Assembly of the State of Arkansas; to the Committee on Commerce:

"HOUSE RESOLUTION No. 48

"Resolution urging the Congress of the United States to enact nationwide standards for maximum phosphate contents for detergents and for the labeling of all detergents for phosphate content and the percentage of bio-degradation of phospate content

"Whereas, a large number of detergents sold in this country contain contents of phosphate that are dangerous to sewage disposal systems and pollute streams in which said phosphates become deposited through sewage disposal systems and kill the plant and fish life in such streams; and

"Whereas, the State of Illinois recently enacted legislation prohibiting detergents from containing more than 8.7 per cent phosphate; and

"Whereas, it is essential that Nationwide standards be established prescribing maximum limitations on phosphate contents of detergents and also establishing standards for the chemical composition of phosphates contained in detergents in order to assure that said contents will not pose a severe sewage disposal problem and will not contaminate lakes and streams; and

"Whereas, the labeling of each container of detergent, in order that the purchaser thereof may be alterted to the percentage of phosphate content and the percentage of biodegradation of phosphate content, would enable purchasers who are interested in pollution control to cease purchasing such products thereby forcing the manufacturers of detergents to limit phosphate contents to acceptable standards; and

"Whereas, the enactment of maximum phosphate content standards for detergents and the enactment of Nationwide regulations with respect to the labeling and identification of phosphate contents in packages containing detergents is essential for the promotion of pollution control in this Nation; Now therefore,

"Be it resolved by the House of Representatives of the 68th General Assembly of the State of Arkansas:

"That the Congress of the United States is respectfully requested to enact legislation providing for Nationwide standards with respect to maximum phosphate content of detergents, and to establish standards to require that all packages containing phosphates include appropriate labels thereon identifying the percentage of phosphate content thereof and the percentage of bio-degradation of phosphate content, in order that the purchaser thereof may be aware of the pollution characteristics of said detergents.

"Be it further resolved that the Chief Clerk of the House of Representatives shall furnish a copy of this Resolution to each member of the Arkansas Congressional Delegation, to the President of the Senate and the Speaker of the House of Representatives of the National Congress, and to the President's Advisor on Consumer Protection."

A resolution of the Senate of the State of Ohio; to the Committee on Commerce:

"RESOLUTION

"Resolution to memorialize the Congress of the United States and John A. Volpe, Secretary of Transportation, to reconsider the 'Railpax' proposal which is before Congress, to include in its provisions the Ohio cities of Cleveland, Columbus, Toledo, Dayton, Cincinnati, Akron and Youngstown

"Whereas, The members of the Senate of the 109th General Assembly of Ohio have noted with dismay that on May 1, 1971, when Railpax, the new quasi-governmental National Railroad Passenger Corporation takes over operation of passenger trains linking twenty-one pairs of major United States cities from coast to coast, the huge metropolitan region of Cleveland, Toledo, Akron, and Youngstown, with a combined population of four million, and with thousands of rail passengers each day, will have no Railpax service; and

"Whereas, The city of Cleveland will be particularly hard-hit since it had hoped that Railpax would supplement the new terminal building which cost Clevelanders millions of dollars and thus halt the decline of the inner city of Cleveland; and

"Whereas, It is particularly unfortunate that while six routes of Railpax will traverse Ohio, this largest metropolitan and industrial area of Ohio will be ignored, thereby making Cleveland the largest city in the country to be left without inter-city rail passenger service; and

"Whereas, Inclusion in the Railpax system would be a tremendous "shot in the arm" which Cleveland so badly needs; therefore be it

"Resolved, That we, the members of the Senate of the 109th General Assembly of Ohio in adopting this Resolution respectfully and most strongly urge the Congress of the United States and John A. Volpe, Secretary of Transportation to reconsider the assigned routes of the Railpax system so as to include the northern section of Ohio, and we especially urge the twenty-four member Ohio delegation to the United States House of Representatives and Ohio's two Senators to demand that Cleveland be included; and be it further

"Resolved, That a copy of this Resolution be spread upon the pages of the Journal and that the Clerk of the Senate transmit duly authenticated copies of this Resolution to the President of the United States; the Vice-President of the United States; the Speaker of the House of Representatives; John A. Volpe, Secretary of Transportation; and to each Senator and Representative from Ohio in the Congress of the United States."

A resolution of the Senate of the State of Alabama; to the Committee on Finance:

"RESOLUTION No. 16

"Whereas, Within the last several years the situation in the American textile industry has become increasingly acute and particularly so in the Southern states where the production of cotton and the manufacturing of cotton products constitute the very life blood of this area; and

"Whereas, Hundreds of Alabamians have lost their jobs or are onto short time manufacture and the foreign competitors who flood our market and force thousands of our citizens completely out of work and market their textiles and apparel under conditions that are illegal in the State of Alabama and in the United States; and

"Whereas, The government of Japan has offered a most unsatisfactory proposal to restrain, unilaterally, its textile and apparel exports to the United States; and

"Whereas, The Japanese proposal has been rejected by the President of the United States, by the Governor of Alabama, by many members of the Congress, including the Senators and Representatives from Alabama, by the American Textile Manufacturers Institute, by the Alabama Textile Manufacturers Association, by numerous newspaper editorials and by many others; and

"Whereas, The textile markets of the United States are virtually wide open to foreign imports while many of the major exporters to this country tightly protect their own markets against our textile exports; and

"Whereas, The American textile industry pays its employees approximately two dollars an hour more than the industry of Japan, with the gap being even wider between this country and some other Asian Nations; and

"Whereas, The Alabama Legislature and the people of Alabama are not willing to see these terribly unfair conditions continue to weaken one of their most important industries which together with its supply and related industries over the years have been good, responsible corporate citizens; and

"Whereas, These unfair conditions largely have been created by a combination of policies of our Federal Government. Now, therefore;

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That the Legislature of Alabama respectfully requests the President of the United States and the Congress of the United States to do all in their power through legislative and administrative action to see that order is restored to the chaotic international textile and apparel situation.

"Be it further resolved, That the Legislature of Alabama expresses to the Alabama Congressional Delegation and to other members of the Congress, who continue to work for a solution to this problem, deep appreciation for their dedication to this vital effort.

"Be it further resolved, That copies of this resolution be sent to the President of the United States, to each member of Alabama's delegation in the Senate and in the House of Representatives of the United States Congress, to the Secretary of Commerce, to the Secretary of State and to the Clerks of the respective Houses of the United States Congress."

Joint memorial of the Legislature of the State of New Mexico; to the Committee on Finance:

"SENATE JOINT MEMORIAL 9

"A joint memorial to the President and the Congress of the United States relating to revenue sharing

"Whereas, the 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 increased 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 recurring fiscal crises at state and local levels has become the overriding problem of intergovernmental relations and of continuing a vibrant and workable federal system; and

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

"Whereas, there will be placed before the present United States Congress one or more proposals for the enactment of revenue sharing legislation; and

"Whereas, under one of these plans the counties and cities of New Mexico would receive approximately eight million dollars ($8,000,000) of general revenue sharing to be distributed as follows:

"Bernalillo 67,522; Catron 5,870; Chaves 189,566; Colfax 21,344; Curry 48,959; De Baca 19,210; Dona Ana 91,381; Eddy 97,117; Grant 152,880; Guadalupe 37,886; Harding 3,068; Hidalgo 18,009; Lea 343,913; Lincoln 34,952; Los Alamos 43,809; Luna 78,307; McKinley 45,357; Mora, 6,270; Otero 38,153; Quay 78,174; Rio Arriba 21,878; Roosevelt 61,632; Sandoval 10,806; San Juan 58,030; San Miguel 24,813; Santa Fe 66,168; Sierra 12,940; Socorro 50,026; Taos 20,811; Torrance 14,674; Union 13,340; Valencia 55,496.

"Albuquerque 3,025,844; Roswell 232,921; Raton 35,352; Clovis 339,110; Las Cruces 494,391; Artesia 148,878; Carlsbad 138,205; Silver City 78,441; Lordsburg 14,007; Eunice 15,341; Hobbs 162,351; Jal 16,409; Lovington 49,492; Deming 46,958; Tularosa 10,806; Tucumcari 68,169; Portales 135,404; Bernalillo 9,338; Aztec City 7,476; Farmington 75,425; Las Vegas City 52,294; Las Vegas Town 31,350; Santa Fe 353,518; Truth or Consequences 20,544; Socorro 31,350; Clayton 22,945; Belen 35,485; Grants 59,097; Milan 20,677; All other cities 346,447.

"Now, therefore, be it resolved by the Legislature of the State of New Mexico, that the President of the United States and the Congress of the United States be urged as a matter of vital importance to the federal system of this nation to support and enact an acceptable revenue sharing plan that would make a portion of the taxes on income levied by Congress pursuant to the Sixteenth Amendment of the Constitution of the United States available each year to state governments and the 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 State; and

"Be it further resolved, that copies of this memorial be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and to each member of the New Mexico delegation in the United States Congress."

A resolution of the Senate of the State of New Jersey; to the Committee on Finance:

"SENATE RESOLUTION No. 2006

"Whereas, By reason of the income tax recently enacted by the Commonwealth of Pennsylvania, thousands of New Jerseyans who commute to work in Philadelphia and other parts of Pennsylvania adjacent to this State will be subject to taxation of their earnings in the same manner as residents and citizens of Pennsylvania; and

"Whereas, With respect to those New Jerseyans who work in the city of Philadelphia, this new tax will be in addition to the tax upon earnings which has hitherto been imposed by that city; and

"Whereas, Such commuters, while contributing greatly to the commercial activity and economic prosperity of those areas of Pennsylvania in which they work, actually receive only minimal government services from the Commonwealth of Pennsylvania, and are excluded from educational, welfare and other services which have created the demand for new revenue sources in that Commonwealth and have led to the imposition of this new tax; and

"Whereas, Imposition of such taxes upon persons who have neither a voice in the levying or disposition of the revenues, nor an equitable share in the benefits created thereby, is highly discriminatory and in effect levies a tribute upon them for the privilege of crossing State lines to earn a living, contrary to the letter and spirit of the United States Constitution, Article IV, Section 2, and Amendment XIV, section 1; and

"Whereas, Experience by the people of this State with similar taxation imposed by the State and city of New York indicates that such taxes, once begun, continue to grow more burdensome and more inequitable as the taxing jurisdiction abuses its position in order to mulct a nonresident population without voice or vote in the establishment of its fiscal policies; and

"Whereas, There are now pending in the Congress of the United States several bills aimed at ending this abuse; now, therefore

*"Be it resolved, by the Senate of the State of New Jersey:*

"That this House hereby expresses and records its vigorous opposition to the discriminatory taxation of New Jersey residents by the Commonwealth of Pennsylvania through the imposition of a tax upon the income of New Jersey residents which is derived from their employment within the Commonwealth of Pennsylvania, and its further general opposition to all such unfair interstate taxation upon persons whose places of work and residence are in different states; and

*"Be it further resolved,* That this House firmly supports the efforts and activities of citizens and citizen groups which are engaged in combating the imposition of such taxes, and urges all citizens of this State to lend their support to pending Federal legislation designed to combat this evil; and

*"Be it further resolved,* That this House hereby respectfully memorializes the Congress of the United States to act promptly and effectively upon the pending legislation which would prohibit or restrict such taxation; and

*"Be it further resolved,* That duly authenticated copies of this resolution, signed by the President and attested by the Secretary, be transmitted to the Governor of the Commonwealth of Pennsylvania, the President of the Pennsylvania Senate and the Speaker of the Pennsylvania House of Representatives; to the Mayor of the city of Philadelphia and the President of the Philadelphia City Council; to the Vice-President of the United States and the Speaker of the United States House of Representatives, and to each of the members of the Congress of the United States elected from this State."

A concurrent resolution of the Legislature of the State of New Jersey; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 42

"A concurrent resolution memorializing the Congress of the United States to enact appropriate legislation to provide that all sales taxes paid by individual taxpayers shall be treated for Federal income tax purposes as credits against Federal income tax due, rather than as deductions against income for such purposes

Whereas, It is generally recognized that taxation in this country has reached a crisis level, and that tax relief should be granted whenever feasible; and

"Whereas, Federal income tax law presently provides that all sums paid by individual taxpayers for sales taxes are to be treated as deductions to reduce the income subject to the Federal income tax; and

"Whereas, Amending the aforementioned tax law to provide that all sums paid for sales taxes shall be treated for Federal income tax purposes as credits against Federal income tax due rather than as deductions against income for such purposes would be an appropriate form of tax relief that would not unduly affect the economy; now, therefore,

*"Be it resolved by the Senate of the State of New Jersey (the General Assembly concurring):*

"1. That the Congress of the United States be, and it is hereby, respectfully memorialized to consider the enactment of legislation to provide that all sums for sales taxes paid by individual taxpayers shall be treated for Federal income tax purposes as credits against Federal income tax due, rather than as deductions against income for such purposes as is presently provided.

"2. The Secretary of the Senate shall cause duly authenticated copies of this resolution to be sent to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and the Members of the Congress of the United States elected from New Jersey."

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on Government Operations:

"HOUSE CONCURRENT RESOLUTION No. 1060

"A concurrent resolution expressing concern over the possible abolishment of the United States department of agriculture

"Whereas, On March 25, 1971, in the Senate of the United States the President of the United States, the Honorable Richard M. Nixon, conveyed a message to the Senate concerning government reorganization which suggested that, in effect, the department of agriculture be divided and its basic components be placed in at least three different departments; and

"Whereas, Under the proposed arrangement, it is probable that programs of vital concern to the Kansas farmer would fall into the hands of people with little interest or understanding of our problems; and

"Whereas, The agricultural industry is of vital importance to the nation and to the people of Kansas; and

"Whereas, It is essential that agriculture have an agency or department which is responsive to its needs; and

"Whereas, Senator James B. Pearson has stated that he does not believe that reorganization of the department of agriculture would be in the best interest of Kansas farmers: Now, therefore,

*"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the legislature of the state of Kansas hereby expresses concern over the possible abolishment of the United States department of agriculture.

*"Be it further resolved:* That the secretary of state be directed to transmit enrolled copies of this resolution to the President of the United States, the Honorable Richard M. Nixon, the president of the United States senate, the speaker of the United States house of representatives, and to each member of congress from this state."

A joint memorial of the Legislature of the State of New Mexico; to the Committee on Interior and Insular Affairs:

"SENATE JOINT MEMORIAL 7

"A joint memorial requesting the United States Congress and the President of the United States to take the action necessary to transfer ownership and administration of vacant and unrestricted public domain lands in New Mexico to the State

"Whereas, approximately thirteen million acres of land in New Mexico are classified as

federal 'vacant and unreserved public domain'; and

"Whereas, this land constitutes an important portion of the state, and under present administration by the federal government does not serve the general welfare of the state and its citizens; and

"Whereas, continued federal administration of vacant and unreserved public domain lands will hinder the economic development of New Mexico inasmuch as the income derived from these federally-administered lands is significantly less than the income from similar lands administered by New Mexico;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the United States Congress and the President of the United States are respectfully requested to give immediate attention to, and take measures necessary for, transferring ownership and administration of the vacant and unreserved public domain lands in New Mexico to the state, without any stipulations except those which will protect the lands against misuse, misappropriation or ecological harm; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and the members of Congress elected from New Mexico."

Resolution of the Legislature of the State of Maine; to the Committee on the Judiciary:

"RATIFICATION RESOLUTION FOR 18-YEAR-OLD VOTE AMENDMENT

"Whereas, the 92nd Congress of the United States of America at its first Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"'JOINT RESOLUTION

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE

"'SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"'SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation,' now, therefore, be it

"Resolved: By the Members of the House of Representatives and the Senate of the 105th Legislature, that such proposed amendment to the Constitution of the United States of America be and the same is hereby ratified; and be it further

"Resolved: That certified copies of this Resolution be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

A memorial of the Senate of the State of New Mexico; to the Committee on the Judiciary:

"SENATE MEMORIAL 38

"A memorial requesting the Congress of the United States to provide financial assistance for the Mutual Aid Act of New Mexico whereby State, county and municipal law enforcement agencies may cooperate with Indian tribal and pueblo councils in law enforcement

"Whereas, the social and economic interrelationships of the Indian and the non-Indian populations are increasing in our modern society; and

"Whereas, the antiquated concepts of jurisdiction when applied on the basis of ethnic differences within the same community, county or state add unnecessary burdens to law enforcement officers and allow offenders to escape punishment; and

Whereas, both the Indian and the non-Indian wish to approach the current problems of crime, delinquency and other violations of law on a local, community, people-to-people basis instead of the artificial barriers presented by jurisdictional concepts;

"Now, therefore, be it resolved by the Senate of the State of New Mexico that the Congress of the United States is requested to provide financial assistance to implement the provisions of the Mutual Aid Act of New Mexico so that the enclaves which exist both on and off the Indian lands may be adequately served with law enforcement officers, and that the rights of both Indians and non-Indians be protected regardless of the artificial jurisdictional boundaries between such lands; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each member of the New Mexico Congressional Delegation."

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

"ENROLLED HOUSE JOINT RESOLUTION 0

"A joint resolution ratifying the proposed amendment to the constitution of the United States relating to the right to vote of persons 18 years of age or older

"Resolved by the Senate and the House of Representatives of the state of Michigan, That the ninety-second congress of the United States of America, at its session, in both houses, by a constitutional majority of two-thirds thereof has made the following proposition to amend the constitution of the United States:

"JOINT RESOLUTION

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'"ARTICLE—

"'"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"'"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."'

"Therefore, in the name of, and on behalf of, the people of the State of Michigan, we do hereby ratify, approve and assent to the proposed amendment to the Constitution of the United States.

"Resolving further, That certified copies of this joint resolution be transmitted by the governor of the state of Michigan, to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and the Administrator of General Services."

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

"HOUSE JOINT RESOLUTION No. 1

"A joint resolution ratifying the proposed amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age or older

"Be It Resolved by the Legislature of the State of Idaho:

"Whereas, the Ninety-second Congress of the United States of America, at its first session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States of America in the following words, to-wit:

"'JOINT RESOLUTION

"'Proposing an amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age or older.

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'"ARTICLE —

"'"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"'"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."'

"Now, therefore, be it resolved by the Forty-first Idaho Legislature that the proposed amendment to the Constitution of the United States of America be, and the same is hereby ratified by the Forty-first Idaho Legislature."

A joint resolution of the General Assembly of the State of Iowa; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 15

"A joint resolution ratifying a proposed amendment to the Constitution of the United States relating to extending the right to vote to citizens eighteen years of age or older

"Whereas, the Ninety-second Congress of the United States has passed a Joint Resolution proposing an amendment to the Constitution of the United States relating to extending the right to vote to citizens eighteen years of age or older; and

"Whereas, This Joint Resolution passed the Senate of the United States on March 10, 1971, passed the House of Representatives of the United States on March 23, 1971, and now has been submitted to a vote of the States and reads:

"'Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age or older

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'"ARTICLE —

"'"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"'"SEC. 2. The Congress shall have power

to enforce this article by appropriate legislation."'

"Be it resolved by the General Assembly of the State of Iowa: That the foregoing proposed amendment to the Constitution of the United States is hereby ratified and consented to by the State of Iowa and the General Assembly thereof; and

"Be it Further Resolved that the Governor of the State of Iowa forward certified copies of this resolution over the Seal of the State of Iowa to the Secretary of State of the United States, to the Presiding Officer of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to the administrator of the United States General Services Administration."

A joint memorial of the Legislature of the State of New Mexico; to the Committee on Rules and Administration:

"SENATE JOINT MEMORIAL 11

"A joint memorial deploring the bombing of the United States Capitol

"Whereas, a disastrous occurrence took place in our national capitol on March 1, 1971, which portrays the lawlessness which is afflicting our great republic; and

"Whereas, an explosive charge was placed in a room near the chamber of the United States Senate, which is the very heart of our system of representative government, and the resultant explosion caused extensive damage to the building, and only by the grace of God no one suffered physical violence; and

"Whereas, it was a distinct possibility that all of the members of the United States Senate could have been exposed to great physical violence and bodily harm, thereby jeopardizing our democratic system of government;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the President of the United States is respectfully requested to utilize all of the powers available to him to apprehend the perpetrators of this heinous crime and after they are apprehended, that they be brought to a speedy trial; and

"Be it further resolved that copies of this memorial be sent to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives and the New Mexico members of the United States Senate and House of Representatives."

A concurrent resolution of the Legislature of the State of Mississippi; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION NO. 556

"A concurrent resolution extending our gratitude to the Congress of the United States for proclaiming an official 'week of concern' for American prisoners of war and for those missing in action in Vietnam.

"Whereas, the first American still held as a prisoner of war by the Hanoi government was captured seven years ago today, on March 26, 1964; and

"Whereas, thousands of compassionate citizens, diplomats and dignitaries from the United States and from all across the free world have exerted great effort, pleas and prayers to secure for these valiant men not only humane treatment but their liberty; and

"Whereas, the Congress of the United States has proclaimed the date of March 21 through March 27 as a 'Week of Concern' all across our nation in honor of those gallant men of the United States Armed Forces held as prisoners of war and missing in action in Southeast Asia by the North Vietnamese:

"Now, therefore, be it resolved by the Mississippi State Senate, the House of Representatives concurring therein, That we do hereby extend our gratitude to the Congress of the United States for proclaiming this 'Week of Concern' for these fine Americans held captive and unaccounted for in Asia, and we urge all people who love liberty and justice to join us in our prayers for those whose well-being is foremost in our minds and hearts.

"Be it further resolved, That a copy of this resolution be sent to the President of the United States, the Secretary of the United States Senate, the Secretary of the United States House of Representatives and to the press."

A resolution of the Council of the City of Mentor, State of Ohio, in support of the President's proposed general revenue sharing program; to the Committee on Finance.

## 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. SCOTT:

S. 1558. A bill for the relief of Erdogan Altuglu, his wife, Hatice Altuglu, and their children, Suna Altuglu and Erol Altuglu; and

S. 1559. A bill for the relief of Alexander Kalnoki Bedo. Referred to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. COOPER, Mr. GURNEY, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. MCGOVERN, Mr. MONDALE, Mr. NELSON, Mr. PERCY, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. SPARKMAN):

S. 1560. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to permit sharing the cost of agriculture-related pollution prevention and abatement measures. Referred to the Committee on Agriculture and Forestry.

By Mr. BENNETT (for himself, Mr. BAKER, Mr. CURTIS, Mr. DOLE, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MCCLELLAN, Mr. STENNIS, Mr. THURMOND, and Mr. TOWER):

S. 1561. A bill to protect the freedom of choice of Federal employees in employee-management relations. Referred to the Committee on Post Office and Civil Service.

By Mr. GURNEY:

S. 1562. A bill to establish the Canaveral National Seashore in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 1563. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 1564. A bill to amend title 38, United States Code, to increase the statutory rates for anatomical loss or loss of use. Referred to the Committee on Veterans' Affairs.

By Mr. CHURCH:

S. 1565. A bill to provide for the coinage of coins commemorating the bicentennial of the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 1566. A bill to amend the Federal Aviation Act of 1958 in order to provide for more effective control of aircraft noise. Referred to the Committee on Commerce.

By Mr. BROOKE:

S. 1567. A bill to provide capital contributions for corporations organized and operated to guarantee loans to and provide technical assistance to business concerns in areas of high unemployment, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 1568. A bill to amend title II of the Social Security Act to extend from 22 to 26 the age limit for the receipt of child's insurance benefits thereunder by individuals attending school, and to permit reduced child's benefits to be paid to individuals attending school on a part-time basis, and to require notification of the availability of such benefits to those eligible by their 14th birthday. Referred to the Committee on Finance.

S. 1569. A bill to amend the Railroad Retirement Act of 1937 to extend from 22 to 26 the age limit for the receipt of a child's insurance annuity thereunder by individuals attending school, and to permit a reduced child's insurance annuity to be paid to individuals attending school on a part-time basis, and to require notification of the availability of such benefits to those eligible by their 14th birthday. Referred to the Committee on Labor and Public Welfare.

S. 1570. A bill for the relief of Daniel Einisman. Referred to the Committee on the Judiciary.

By Mr. MONDALE (for Mr. JACKSON, Mr. ALLOTT, Mr. GRAVEL, and Mr. STEVENS) (by request):

S. 1571. A bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

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

S. 1572. A bill to expand and extend the desalting program being conducted by the Secretary of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 1573. A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes.

S. 1574. A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE (for Mr. JACKSON) (by request):

S. 1575. A bill relating to the territory of Guam. Referred to the Committee on Interior and Insular Affairs.

By Mr. TAFT (for himself, Mr. ALLOTT, Mr. BEALL, Mr. BURDICK, Mr. HATFIELD, Mr. JORDAN of Idaho, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MOSS, Mr. PACKWOOD, Mr. PEARSON, Mr. SAXBE, and Mr. YOUNG):

S.J. Res. 88. A joint resolution authorizing additional appropriations to the Secretary of Transportation for the purpose of providing urgently needed intercity rail passenger service around the Nation and for the purpose of research and development in the field of high-speed ground transportation, and for other purposes. Referred to the Committee on Commerce.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself, Mr. COOPER, Mr. GURNEY, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. MCGOVERN, Mr. MONDALE, Mr. NELSON, Mr. PERCY, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. SPARKMAN):

S. 1560. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to permit sharing the cost of agriculture-related pollution prevention

and abatement measures. Referred to the Committee on Agriculture and Forestry.

Mr. PACKWOOD. Mr. President, in a recent nationwide poll which asked people to list the most serious problem facing their communities, the results showed Americans rating pollution above all other domestic problems. Certainly the new public awareness for our environment has heightened concern for a wide range of pollution problems which deserve our most urgent attention. Among these is the problem of pollution from agricultural sources. No longer can clean water and fresh air be taken for granted in rural America.

During the last session I introduced a bill, S. 4445 which was designed to broaden the attack on rural environmental problems by providing for greater flexibility in administering funds of the agriculture conservation program. Since that time the Department of Agriculture has changed the name of ACP to the rural environmental assistance program—REAP.

For years much of the taxpayers' money in the ACP program was used to stimulate farm production rather than support environmental preservation. Accordingly, a fair amount of criticism resulted from those who analyzed the ACP program as showing too many immediate benefits for a participating farmer and not enough for the general public.

However, now with the change of program name, I am pleased to note that the program emphasis has changed as well. Forming a partnership between the public and farmers to benefit both, the REAP program will serve as the principal channel through which the Federal Government will share with farmers and ranchers the cost of carrying out approved soil, water, woodland, and wildlife conservation and pollution abatement practices on agricultural land. Overall these measures will help to provide our country with an increased supply of clean water, clean air, an enhanced natural beauty, more opportunities for outdoor recreation, improvements in the quality of our environment, and a better ecological balance.

Mr. President, at the present time cost-sharing is being provided only for agriculture related pollution prevention or abatement practices that also conserve soil and water. Accordingly, new legislation is essential to allow the rural environmental assistance program to succeed in accomplishing its objectives. As each day passes, it becomes more imperative that needed air, water, and land antipollution measures be initiated in our rural areas. Therefore, today I am reintroducing legislation which will amend the Soil Conservation and Domestic Allotment Act to permit greater flexibility in the administration of funds under the rural environmental assistance program and thus allow sharing the cost of agriculture-related pollution prevention and abatement measures. Certainly no program already in existence, or that could be formulated, would contribute more to the control of pollution in rural America.

Testifying on the role of Government programs in the antipollution field before a House Appropriations Subcommittee last year, Mr. Milton Fricke, chairman of the Water Resources Committee for the National Association of Conservation Districts said:

> We think it rather strange that pollution people are seemingly getting such a good press and here the things that we have been doing all these years are being forgotten. If we just had a few more tools we could have done many of the things that they are asking for in another program and we would hate to see another program started.

Mr. President, Senate bill S. 1560 would make available many of the tools that Mr. Fricke asked for. Let me cite some examples:

First. In many States across the Nation, one of the principal methods of protecting fruit and vegetable crops from frost damage involves the use of smudge pots in orchards, vineyards, and fields. Smudge pots give off smoke along with the heat they are designed for, which often create a severe air pollution problem. S. 1560 would authorize cost-sharing to prevent or eliminate air pollution by such smoke.

Second. In pruning and thinning operations, both in woodlands and orchards, the slash and other wastes are generally burned as a fire prevention and insect and disease control measure, and in some cases to prevent water pollution. The smoke that results from burning often creates a severe air pollution problem. Cost-sharing to eliminate these waste materials without burning would be authorized under the provisions of S. 1560.

Third. In areas where the production of grass and legume seed are heavily concentrated, and in some rice-producing regions, heavy crop residues are left on the ground after harvest. In Oregon and other States, farmers customarily burn off these residues as a farming management and disease and insect control procedure, thereby creating air pollution problems. S. 1560 would authorize sharing the cost with farmers on pollution control practices to prevent or abate this type of air pollution.

Fourth. Many farm livestock and poultry barns and feedlots or other operations, even under good management, often cause water, air, or land pollution problems. Some corrective measures are presently authorized. However, others which are much needed are not. S. 1560 would eliminate the need to make detailed determinations of eligibility such as would now be required in many individual cases, and would make possible new and innovative solutions to this growing problem. A feedlot with 60,000 head of cattle is no longer unusual in many areas. A feedlot of this size has the sewage equivalent of a city of more than 1 million inhabitants. If manure is applied at the rate of 10 tons per acre, the annual waste from a 60,000-capacity feedlot would cover approximately 10,000 acres of land. Studies are now underway to determine the maximum amounts of animal wastes than can be applied to the land without reducing crop yield or quality.

Fifth. Farm pesticide and other chemical containers and miscellaneous other waste materials often create land or water pollution problems when they are discarded. Sanitary and safe disposal, of itself, may not also conserve soil and water, but is desirable and needed in the public interest.

In all of these and in other similar cases of farming practices and operations corrective measures and satisfactory equipment to prevent or reduce pollution are known. However, converting to and operating such suitable alternative methods and equipment may be too expensive for individual landowners and operators to accomplish by themselves using only their own resources. Farm families must be concerned first with food, clothing, housing, education, transportation, and taxes. Only after these items are taken care of are most farmers able to move on to the longer term economic, social, and environmental considerations. Also, some of the most needed antipollution practices themselves may not significantly conserve agricultural soil and water.

If farmers are forced by law and regulations to install air and water pollution prevention practices for the benefit of the public without cost-sharing assistance, a large percentage of them may be forced out of farming and the cost of food and fiber to the American consumers will rise.

Senate bill S. 1560 would provide authority for cost-sharing assistance to help with the very substantial cost of changing to nonpolluting equipment and methods where the public, not the farmer, is the principal beneficiary.

The problem of pollution from agricultural sources deserves urgent attention and assistance. I am confident that through this bill we will effectively help the farmers, ranchers, and woodland owners of America to provide a better environment for all of us.

Mr. President, I am most pleased and honored to announce that S. 1560 is cosponsored by the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Illinois (Mr. PERCY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN).

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

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

S. 1560

A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to permit sharing the cost of agriculture-related pollution prevention and abatement measures

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the

Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 163; 16 U.S.C. 590a), is further amended—

(1) By striking in section 7(a) the word "and" immediately before clause (5), substituting a semicolon for the period at the end of clause (5), and adding the following: "and (6) prevention and abatement of agriculture-related pollution."

(2) By changing the first sentence of section 8(b) to read as follows: "The Secretary shall have power to carry out the purposes specified in clauses (1), (2), (3), (4), (5), and (6) of section 7(a) by making payments or grants of other aid to agricultural producers, including tenants and sharecroppers, in amounts determined by the Secretary to be fair and reasonable in connection with the effectuation of such purposes during the year with respect to which such payments or grants are made, and measured by (1) their treatment or use of their land, or a part thereof, for soil restoration, soil conservation, the prevention of erosion, or the prevention or abatement of agriculture-related pollution; (2) changes in the use of their land; (3) their equitable share, as determined by the Secretary, of the normal national production of any commodity or commodities required for domestic consumption; (4) their equitable share, as determined by the Secretary, of the national production of any commodity or commodities required for domestic consumption and exports adjusted to reflect the extent to which their utilization of cropland on the farm conforms to farming practices which the Secretary determines will best effectuate the purposes specified in section 7 (a); or (5) any combination of the above."

(3) By inserting in the second paragraph of section 8 (b) after the words "soil-building services" in the two places where they occur the words "or pollution prevention or abatement aids" and after the words "soil-conserving practices" the words "or pollution prevention or abatement practices".

(4) By striking "or (5)" in the first sentence of section 8 (d) and substituting "(5), or (6)".

(5) By inserting in the proviso of section 8(e) after the words "soil-building or soil-conserving practices" the words "or agriculture-related pollution prevention or abatement practices."

(6) By striking the words "soil-building practices and soil water-conserving practices" in the penultimate sentence of section 15 and substituting "soil-building practices, soil- and water-conserving practices, and agriculture-related pollution prevention and abatement practices".

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By Mr. BENNETT (for himself, Mr. BAKER, Mr. CURTIS, Mr. DOLE, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MCCLELLAN, Mr. STENNIS, Mr. THURMOND, and Mr. TOWER):

S. 1561. A bill to protect the freedom of choice of Federal employees in employee-management relations. Referred to the Committee on Post Office and Civil Service.

Mr. BENNETT. Mr. President. In doing the necessary research prior to the introduction of this bill, I heard the comment made a number of times that the right to work issue is dead. I was told that no one was interested in requiring an employee to pay union dues in order to keep his job. Recent events have proven just the opposite, Mr. President. All of us who are concerned about the individual's right to work have watched with interest the case of Bill Buckley, brother of our distinguished colleague from New York. Mr. Buckley has contested the legality of the American Federation of Radio and Television Artists power to prevent his doing his television show until he pays dues to that organization. Mr. Buckley argues that this is an infringement of his constitutional right to freedom of speech. Now, I don't want to become involved in that controversy, Mr. President, but I do think that it points up the fact that the right to work is not a moot issue but rather a very real and important one.

Nowhere is it going to be more important that we guard against possible abuses of an employee's freedom of choice than in the employment practices of the Federal Government. To insure that employees of the Federal Government will not have to pay union dues, I am introducing this bill.

The right-to-work principle for Federal employees has been supported by Presidents Kennedy and Johnson and now by President Nixon and the platform of the 1968 Republican National Convention. The late President Kennedy in 1962 issued Executive order No. 1098, which guaranteed Federal employees the right to join a union. It also guaranteed these same employees the right to refrain from joining a union if they chose to do so.

Willard Wirtz, Secretary of Labor under President Johnson, headed the Labor Management Commission which reviewed the order in 1968. The Commission, in their report to President Johnson, recommended that the Executive order guaranteeing the freedom of choice to Federal employees remain in force. This was the same position that was adopted by the Republican platform at the last national convention, as I mentioned earlier. I am also happy to note that Richard Nixon has continued his support of this principle.

Now, with the support of our last three Presidents for this freedom of choice for Federal employees, the question may be asked as to why it is necessary to introduce this bill. To me that is the fundamental concept of free government.

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By Mr. GURNEY:

S. 1562. A bill to establish the Canaveral National Seashore in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. GURNEY. Mr. President, on January 22, 1971, President Nixon delivered his state of the Union address. He announced as his third great national goal the restoration and enhancement of our natural environment, and specifically highlighted his intention "to expand the Nation's parks, recreation areas and open spaces in a way that truly brings parks to the people." To paraphrase the President for a moment, central Florida is a portion of my State now possessed of a great many people in search of a park.

I am today introducing legislation to establish the Canaveral National Seashore Park. The east central area of Florida, the section of my State which would find this national seashore most accessible, has experienced a spectacular growth in the past 20 years. This seven-county area comprised of Brevard, Volusia, Orange, Indian River, Lake, Osceola, and Seminole Counties, has ballooned from a population of 229,333 in 1950 to 656,962 in 1960 to 1,147,900 in 1970. In other words, the population of this region has approximately doubled every 10 years and now comprises nearly one-fifth of the total population of Florida.

So far, I have spoken only of the growth of the resident population. This area already provides a strong tourist lure in the space effort at the NASA complex located at Cape Kennedy; in excess of 1 million visitors visited the installation during the past year. Shortly, however, the east central region is to become a tourist mecca with the scheduled opening of Disney World in October of this year; it is conservatively estimated that 10 million tourists will visit this attraction during its opening year. Last year, an estimated 22 million people visited Florida, each for an average of 2 weeks duration. No one so far has been in a hurry to jeopardize his crystal-ball gazer's reputation to forecast what sort of increase in this figure can be expected once Disney World opens for business, but the impact is expected to be a monumental one—on a State which has routinely logged a 1-to-2 million visitor increase every year.

All of this growth in the area is beginning to exert enormous pressures on the remaining parcels of land which are as yet undeveloped, particularly beachfront property. Speculators in land values can hardly be blamed for eyeing unspoiled ranks of dunes abutting the sea with spectacles fitted with glasses of increasingly pinkish hues. Underdeveloped beach front and quiet lagoon property has recently been undergoing a rapid transition from untouched or agricultural to urban or subdivision.

The area to be included within this proposal for the Canaveral National Seashore is an 18-mile stretch of beachfront within an easy 40- to 50-mile reach of both the Orlando urban area and the Disney World complex at Kissimmee. A highway proposal, still in the planning stage, has been proposed to link Lake Kissimmee to the national seashore in a scenic highway to further facilitate projected traffic between these two points. The intense "growing pains" of this area of Florida make imperative preservation of a sizable beachfront park for recreational purposes, such as I am proposing today.

The parcel of property under consideration is an idyllic one, and, as yet, teeming with indigenous wildlife. The adjacent Merritt Island wildlife refuge has had 265 bird species identified within its boundaries. There is good fishing for the sport fisherman in both the breaker and wave action zones, and in the lagoons behind the Barrier Dunes. The beach itself is in excellent condition, and in fact is described by scientists as an example of a "prograding" beach—one which is in a condition of steadily augmenting itself. The temperature of both air and water meander annually in a gentle fluctuation between a temperature of 60 and 80 degrees.

This entire area is also rich in archeological and historical landmarks. There

has been continuous habitation in the Canaveral area for at least several thousand years. There are numerous mounds with shells and bones left in middens as refuse from aboriginal meals. The shallow and treacherous waters abutting the cape frequently grounded and sank ships from the Spanish explorers onwards resulting in shipwreck survivors who frequently had to deal with hostile native populations once they conquered the raging seas and were cast ashore. Florida was a British colony under terms of the Treaty of Paris signed in 1763; following the end of the American Revolution, Florida was returned to Spain. Under Spanish control once more, large land grants encouraged the establishment of cotton and sugar plantations. In 1821, with the ratification of the Adams-Onis Treaty, the area came under jurisdiction of the United States. After the Seminole war, what is generally considered to be the first citrus grove in Florida was established on Merritt Island, just south of the proposed national seashore. The cape itself, during the Civil War, was the dividing line separating two union blockading fleets. And of course, in the present day, the Canaveral Seashore, a portion of which would be comprised of acreage now within the NASA reservation, would provide an excellent vantage point for the launching of the "big birds" during the spectacular space-shots.

I am pleased to bring to the attention of my colleagues the above arguments for the establishment of the Canaveral National Seashore and to urge its passage to insure the acquisition of a significant portion of our national and historical heritage to will to the future generations of our country.

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By Mr. SCHWEIKER:

S. 1563. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft. Referred to the Committee on Commerce.

A CRIMINAL PENALTY FOR SHOOTING AT CERTAIN BIRDS, FISH, AND OTHER ANIMALS FROM AN AIRCRAFT

Mr. SCHWEIKER. Mr. President, I introduce a bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

This legislation is directed toward ending a practice which was highlighted by NBC in documentary film, "The Wolfmen," which displayed the actions of a few hunters who were shooting wolves from aircraft.

Last year, the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries held hearings on this legislation. H.R. 15188 passed the House, but regrettably was not acted on by the Senate before the end of the 91st Congress on January 2, 1971.

Legitimate sportsmen across the Nation have spoken out against the use of aircraft for hunting animals or for harassing wildlife. We cannot allow this unfortunate practice, which is called a "sport" by some, to continue.

The legislation which I introduce today is identical to H.R. 5060, a bill introduced in the House of Representatives by Congressman JOHN P. SAYLOR and 21 other Members of the House. This is, I believe, an improved version of the bill which passed the House last year, in that it would require those whose duty it is to engage in such activity for the protection of land, water, or wildlife under the authority of a permit issued by a State or the United States, to file an annual report with the Secretary of the Interior describing the reason for the issuance of such a permit and the type of animals authorized to be taken thereunder.

It is my hope that the Senate Commerce Committee will give favorable consideration to this legislation in the very near future.

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

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

S. 1563

A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Fish and Wildlife Act of 1956 is amended by adding at the end thereof the following new section:

"SEC. 12. (a) Any person who—

"(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

"(2) uses an aircraft to harass any bird, fish, or other animal; or

"(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2); shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b)(1) This section shall not apply to any person in the discharge of his duties if such person is employed by, or is an authorized agent or operating under permit of, any State, or the United States to administer and protect or aid in the administration and protection of land, water, or wildlife.

"(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

"(A) the name and address of each person to whom a permit was issued;

"(B) a description of the animals authorized to be taken thereunder; and

"(C) the reason for issuing the permit.

"(c) As used in this section, the term 'aircraft' means any contrivance used for flight in the air.".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended by inserting "(a)" immediately after "SEC. 609." and by adding at the end thereof the following new subsection:

"Violation of Certain Laws

"(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 12 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.".

(b) (1) Immediately after the section heading of such section 609, insert the following:

"PROCEDURE"

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certification."

is amended by adding the following:

"(a) Procedure.

"(b) Violation of certain laws.".

SEC. 3. The amendments made by the first section of this Act shall take effect as of the thirtieth day after the date of enactment of such section.

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By Mr. INOUYE:

S. 1564. A bill to amend title 38, United States Code, to increase the statutory rates for anatomical loss or loss of use. Referred to the Committee on Veterans Affairs.

STATUTORY AWARD TO VETERANS

Mr. INOUYE. Mr. President, few Members of this deliberative body are more aware of the plight of the disabled veteran than I. I have personally faced the experiences through which many have endured and will endure in the future. I was most fortunate in the years following World War II, but other disabled veterans have not been as fortunate and have suffered financially from the substantial increase in the cost of living, particularly the rampant inflation of the last 3 years.

Therefore, I am introducing today, for appropriate reference, a bill that will increase the statutory award to veterans who have lost one extremity from the current $47 to $80 per month.

A statutory award is a supplemental benefit paid to veterans who have had amputations of a foot, arm, procreative organ, or who suffer from blindness or deafness. While awards for multiple amputations have been increased, the award for a single injury have not risen since 1952. In fact, the rise since 1946, when this program was initiated, has been only $5.

Needless to say, this amount is woefully inadequate today. Although disability compensation has increased, this supplemental benefit has barely risen. Moreover, in some rare cases, the statutory award is all some men receive. Two decades of inaction are unjustified and need correction at the earliest possible date.

My interest in this bill is heightened by the war in Indochina. Thousands of young men who lose an extremity will qualify for the program and will receive an award. An increase in these benefits is the least that we can do for these dedicated veterans. I hope that Congress will take expeditious action on this long overdue legislation.

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By Mr. CHURCH:

S. 1565. A bill to provide for the coinage of coins commemorating the bicentennial of the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

THE BICENTENNIAL COMMEMORATIVE COINAGE ACT

Mr. CHURCH. Mr. President, I introduce today for appropriate reference the Bicentennial Commemorative Coinage Act.

This legislation, if enacted, would pro-

vide for the minting of a special set of silver coins to commemorate the 200th anniversary of American independence.

It is appropriate that the 200th anniversary of our independence be commemorated by a set of fine silver coins which hold an intrinsic value. The minting of such a special issue is not without precedent, Mr. President. In 1926, two gold coins, one with a denomination of $2.50 and the other with face value of $0.50, were issued to commemorate the 150th anniversary of our Nation's independence.

My bill would leave complete discretion to the Secretary of the Treasury to determine how many different coins should comprise such a commemorative set, how many sets should be minted, the price to be charged for such sets and, in consultation with the Joint Commission on Coinage, what designs the coins should bear.

This legislation allows the Treasury to make use of any silver in the national stockpile in excess of strategic needs, and provides authority for the purchase of such additional stocks of silver as the Secretary may deem necessary to carry out the purposes of this act.

Mr. President, it is fitting that, in marking the 200th anniversary of our Nation's independence, we issue a special set of silver coins. Early action on this proposal would give the Treasury Department the time needed to make appropriate preparations for the minting of these commemorative coin sets.

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By Mr. CRANSTON:

S. 1566. A bill to amend the Federal Aviation Act of 1958 in order to provide for more effective control of aircraft noise. Referred to the Committee on Commerce.

CONTROL OF AIRCRAFT NOISE

Mr. CRANSTON. Mr. President, I rise today to introduce a bill to help cope with the rapidly increasing problem of noise pollution.

Excessive noise degrades our environment. Hence, the control of noise, like the control of other pollutants, is necessary if the overall goal of a more pleasant and healthy environment is to be achieved.

The bill will specifically cope with the problem of aircraft noise. There are many people who lose because of such noise. Residents near airports lose sleep, lose the utility of their outdoor areas, lose the efficiency of their schools, hospitals, and outdoor recreational areas. Companies lose money when it is necessary to soundproof buildings near airports.

With the advent of jet aircraft and the increase in air traffic, noise pollution invaded homes, schools, factories, and hospitals, and made them unlivable. We must stop this increasing volume of noise.

We have the technology to reduce aircraft noise. Our aerospace corporations can provide the manpower and the skills to reduce noise pollution. We must now make the commitment to a quiet and livable environment which will put these resources to work on noise reduction.

The bill I am introducing, if enacted, would reduce commercial aircraft noise from one-half and—in some cases—to less than one-fourth its present level within the next 5 years.

The proposed law would require that engines be retrofitted on all existing jet aircraft and on all future production of present type planes. Retrofitting involves lining the nacelle, or cowling, of a jet engine with soundproofing material, and enlarging the size of the engine's exhaust outlets.

Deadline for completing the procedure would be January 1, 1976. By then, there will be between 1,500 and 1,700 of the present types of airliners in operation. They now number about 1,700.

The Federal Aviation Administration last year ruled that all new types of aircraft put into service after January 1, 1972, must be acoustically treated. These would include the Lockheed Tri-Star 1011 and the DC–10.

But the FAA regulation does not apply to any planes now in service, These include the 747, 737, 727, 707, DC–8, and DC–9, and any further class or series of modifications they may undergo. With the exception of the 747, future models of these aircraft will also not be covered by the FAA regulations. New models of the 747 will be covered. About 200 747's will be produced before the new model changes are made.

The average airliner is kept in operation from 10 to 20 years.

Why wait another 10 or 20 years for the next generation of airliners to replace current planes before doing something about noise pollution?

Experts variously estimate that anywhere from 2 to 10 million people living in jet flight paths near airports across the Nation are living in unacceptable noise environments.

The FAA uses the lower figure, Dr. Karl Kryter uses the higher figure, and other estimates range between the two. Dr. Kryter is director of sensory science research at the Stanford Research Institute.

These people are subjected to serious interference with their rest, privacy, and sleep and many of them are forced to suffer physiologic and psychologic disruptions. It is totally intolerable that we allow this situation to persist.

It would cost the airlines about a billion dollars to carry out the retrofitting program. But the bill will enable them to raise passenger fares 1½ percent to cover the cost, and the Government would provide loan guarantees to help the airlines raise the initial capital they would need.

Based on figures supplied by the Aerospace Industries Association, it is estimated that 35,000 people would be employed for 2 years in the industry developing and installing the retrofits, and that these workers would generate still another 105,000 jobs outside aerospace.

This is a good example of how we can put people to work in the aerospace industry fighting pollution instead of creating it.

Aircraft noise conditions are the most severe in New York, Los Angeles, San Francisco, Boston, Atlanta, Miami, Dallas, and Washington, D.C., wher the busiest airports are located.

California, which has one of the worst noise pollution problems in the country would be a major beneficiary of the bill. the retrofitting program would improve conditions for an estimated 1 million persons living near California's 18 jet airports.

They include some 400,000 near Los Angeles International which, with 219,000 flights a year, is the second busiest airport in the country next to Chicago's O'Hare, which handles 315,000 flights annually.

Noise pollution would also be drastically cut for 200,000 people living near San Francisco International, and another 120,000 in the flight paths at San Diego's Lindbergh Field.

These 720,000 people in Los Angeles, San Francisco, and San Diego are living under unacceptable conditions, according to standards set by Dr. Kryter. Even if we go by the lower standards accepted by the FAA, the Department of Housing and Urban Development, and the Presidential Panel on Jet Aircraft Noise. This bill would rescue 360,000 of these people from unacceptable living conditions.

San Francisco has the Nation's fifth busiest airport with 149,000 flights annually. San Diego and Sacramento are among the Nation's 150 hub airports with 20,000 and 14,000 flights a year respectively.

Other California airports with jet traffic are at Bakersfield, Blythe, Burbank, Fresno, Long Beach, Monterey, Oakland, Palm Springs, Ontario, San Jose, Santa Ana, Santa Barbara, Stockton, and South Lake Tahoe.

Others in the top 10 airports besides Chicago, Los Angeles, and San Francisco are New York's Kennedy and LaGuardia, with 199,000 and 126,000 flights a year respectively; Boston, 104,000; Atlanta, 157,000; Miami, 128,000; Dallas-Love, 122,000 and National Airport in the Nation's Capital, 118,000.

Under FAA noise standards, my bill would improve noise conditions from unacceptable to acceptable for 285,000 people in New York, 183,000 in Boston, and 340,000 in Chicago.

This proposed legislation would authorize $35 million to complete research and development on retrofitting techniques so aircraft noise can be brought down to the levels set in this bill. They are the same levels FAA now requires for soundproofing new generation aircraft.

The standards established in this call for noise reductions ranging from 30 to 75 percent below present levels, depending on the age of the engines and the size of the planes. Heavier planes require more and heavier engines, and the heavier the engine, the more noise it emits.

Several industry leaders and the Stanford Research Institute have advised me that with that amount of money, retrofitting technology could be perfected within 2 years.

The FAA and the National Space and Aeronautics Administration have spent more than $25 million on noise research over the past 5 years. Boeing has already successfully flight-tested retrofits on a

707 and Douglass, on a DC–8. Both are four-engine planes.

They used a honeycomb-shaped composite of corrosion resistant nickel alloys and glass fiber as an acoustical lining, welded to the inside of the engine housing.

Companies receiving research and development grants under my bill will be required to repay them if they succeed in marketing a retrofitting process to the airline companies. This would be accomplished by the firms' paying the Government a percentage of their profits on retrofitting sales until the grant is paid back.

This bill would also make a billion dollars in loan guarantees available to the airlines to help them pay for the retofitting. It would cost about $500,000 apiece to retrofit most airliners. The older 707's however, would cost closer to a million dollars apiece.

The Civil Aeronautics Board would be required under the bill to grant the airlines rate increases to make up for the cost of retrofitting, plus earlier retirement of some planes. The airlines, for example, might decide to retire 707's earlier than planned rather than go through the expense of retrofitting them.

A study done for the FAA indicates that a 1½-percent fare increase would be enough to cover retrofit and retirement costs. The same study reported that that small an increase would not affect passenger traffic.

Finally, the bill authorizes $50 million for sound monitoring equipment so the State and local governments can enforce the act.

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

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

S. 1566

A bill to amend the Fedeal Aviation Act of 1958 in order to provide for more effective control of aircraft noise

*Be it enacted by the Senate and House of Repesentatives of the United States of America in Congress assembled,* That section 611 of the Federal Aviation Act of 1958, relating to the control and abatement of aircraft noise and sonic boom, is amended by inserting at the end thereof the following:

"(d) Effective on and after January 1, 1976, all Subsonic Transport Category aircraft operating within the jurisdiction of the United States shall reduce their takeoff, approach and sideline noise each by 10 EPnDb from their 1971 noise levels or to the levels as set forth in Appendix C (not including section C 36.5(c)), 14 C.F.R. Chapter 1, Part 36, and as prescribed in Docket No. 9337, 34 F.R. 18364, Nov. 18, 1969, and amended by Amendment 36–1, 34 F.R. 18815, Nov. 25, 1969; 34 F.R. 19025, Nov. 29, 1969, whichever noise reduction is greater. No airplane shall operate in violation of the prescribed noise levels.

"(e) (1) The Administrator shall undertake by contract an immediate program of research on representative aircraft models prior to January 1, 1974, to demonstrate compliance by prototype flight test with subsection (d) of this section. Such contracts may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529 and 41 U.S.C. 5), and shall provide that each contractor shall repay the amount of the research and development grants if the sound reduction devices developed pursuant to those grants are sold commercially. Such payments shall be covered into the Treasury as miscellaneous receipts.

"(2) There is authorized to be appropriated $35,000,000 to carry out the provisions of this subsection.

"(3) The findings of all research and development grants made pursuant to this section shall be made available to foreign aircraft corporations which produce or have produced aircraft covered by the noise standards of subsection (d) of this section.

"(f) (1) The Administrator may, upon terms and conditions prescribed by him, guarantee in whole or in part the repayment of any loan or other form of financing made to an air carrier for the purpose of modifying airplanes prior to January 1, 1976, to meet the requirements of subsection (d). The total amount guaranteed pursuant to this subsection shall not exceed $1,000,000,000.

"(2) No guaranty shall be made under this subsection—

"(A) unless the Administrator finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the financing is sought;

"(B) if in the judgment of the Administrator the financing involved is at a rate of interest which is unreasonably high;

"(C) if the terms of such financing permit full repayment more than fifteen years after the date thereof; or

"(D) unless the Administrator finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the financing within the time fixed therefor and reasonable protection to the United States.

A statement of the findings of the Administrator required under the provisions of this subsection shall be made a matter of public record by the Administrator with respect to each guaranty under the provisions of this subsection.

"(3) The Administrator may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this subsection, or the renewal or extension of any such guaranty, whenever the Administrator shall determine it to be equitable to do so.

"(4) Payments required to be made as a consequence of any guaranty by the Administrator made under this subsection shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this subsection.

"(5) In the event of any default on any such guaranteed financing, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"(6) The Administrator shall prescribe and collect a guaranty fee in connection with each guaranty under this subsection. Such fees shall not exceed such amounts as the Administrator estimates to be necessary to cover the administrative costs of carrying out the provisions of this subsection. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(g) The Civil Aeronautics Board shall not reject any increase in rates, fares, or charges filed by an air carrier pursuant to section 403 of this Act if such carrier files with the tariff showing such increase adequate proof that such increase is due to costs of complying with subsection (d) of this section. Such cost shall include both the cost of retrofitting aircraft with sound reduction devices and the early retirement of aircraft due to implementation of the standards imposed by this Act.

"(h) (1) The Administrator is authorized to make grants to State and local agencies, subject to such terms and conditions as he may determine appropriate for the purposes of this section, to assist in paying the cost of administering airport noise monitoring programs.

"(2) Not more than 15 per centum of the funds appropriated pursuant to this section in any fiscal year may be granted to agencies in any one State.

"(3) For the purpose of this subsection the term "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"(4) There is authorized to be appropriated not to exceed $20,000,000 to carry out the provisions of this subsection."

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By Mr. BROOKE:

S. 1567. A bill to provide capital contributions for corporations organized and operated to guarantee loans to and provide technical assistance to business concerns in areas of high unemployment, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

CONVERSION ASSISTANCE CORPORATION ACT

Mr. BROOKE. Mr. President, I am today introducing the Conversion Assistance Corporation bill which I discussed at some length here on the floor of the Senate last Wednesday.

The slowdown of our economy and the accompanying unemployment increases of the past 2 years is our most pressing and severe domestic problem. While there is no dissent to the proposition that the current level of unemployment is totally unacceptable, there is no unanimity of opinion prevailing as to the best method of combatting that unemployment.

The proposal I lay before you today emphasizes the need to develop an economic climate that will create an increased demand for labor. It also recognizes the fact that much unemployment arises out of local or regional conditions and can be treated most effectively through skillfully tooled regionalized vehicles rather than by a single massive Federal machine.

While I certainly laud the progress that has been made through the use of computers and associated devices in linking available skills with available jobs, it seems to me that further affirmative action is needed. The fact is that there are simply more people looking for jobs today than there are jobs available.

Our primary task, then, must be the creation of additional job opportunities. I offer the Conversion Assistance Corporation bill because I believe it will help us to reach that goal.

The bill provides that within each State in which the average unemployment rate for the preceding 6 months exceeds the national average, that a special corporation may be established in accord with the laws of that State consistent with the framework of this bill. The purpose of the Corporation is to provide loan guarantees and management assistance to firms wishing to expand or convert their areas of operation in the civilian

market thereby increasing employment opportunities within the State.

Providing additional venture capital for higher-than-usual-risk enterprises is an economic device of proven efficacy. The availability of such capital will be greatly increased through guarantees of all or part of a loan granted by the Conversion Assistance Corporation which will be backed by a capital grant from the Department of Commerce to the Conversion Assistance Corporation. The Secretary of Commerce will be authorized to grant a capital contribution to each Conversion Assistance Corporation qualifying under the provisions of the bill. This capital grant would serve three purposes: for loan guarantees, the source of funds for operational expenses and providing for the costs of contracted management assistance programs.

It is necessary to emphasize that the Conversion Assistance Corporations will be authorized to charge for their management services and to impose an additional cost of one-half percent for their loan guarantees. This income to the Corporation will serve to prevent normal operating expenses from being a drain on the capital account.

This bill, Mr. President, provides for the repayment to the Federal Government, at the end of a period not to exceed 10 years, of an amount equal to the contributions made by the Government, or as much of that contribution as remains in the Corporation's capital account.

To a large extent, the present unemployment crisis reflects the dislocations caused by a shift in the pattern of Federal spending. This shift is, of course, due principally to the recent reductions in space and defense spending. Frankly, Mr. President, I applaud these reductions and I trust they will continue at an accelerated pace consistent with the preservation of our national security. But as we cut back on military spending, we must at the same time provide for the prompt and orderly utilization of freed resources in new pursuits. Let us match our American know-how and genius to our great unmet needs in transportation, pollution control, housing, education and health care. Enactment of this bill, Mr. President, will be an important step in that direction. I introduce it in that spirit.

Mr. President, I ask unanimous consent at this point that the text of the Conversion Assistance Corporation Act be printed in the RECORD.

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

S. 1567

A bill to provide capital contributions for corporations organized and operated to guarantee loans to and provide technical assistance to business concerns in areas of high unemployment, 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 called the "Conversion Assistance Corporation Act."

DECLARATION OF POLICY

SEC. 2. The Congress declares that decreased expenditures for aeronautical and space activities or defense and related activities, and the decreased rate of economic expansion of the economy, are creating severe unemployment and underemployment in certain areas of the United States; and that to overcome this problem the Federal Government should encourage the organization of statewide corporations designed to promote industrial development in those areas of greatest need within eligible States; and provide capital contributions to such corporations for guaranteeing loans to eligible business concerns in order to facilitate the industrial development of such areas; and to provide management assistance to such eligible business concerns.

ESTABLISHMENT OF CONVERSION ASSISTANCE CORPORATIONS

SEC. 3. (a) The Secretary shall invite and encourage public agencies, or public agencies and private organizations jointly, in eligible States to establish Conversion Assistance Corporations in accordance with the provisions of this Act.

(b) Not more than one Corporation shall be approved under this Act for each eligible State.

(c) Any public agency or any such agency and private organizations applying jointly, within an eligible State, desiring to establish a Corporation qualifying under this Act shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary shall, by regulation, prescribe.

CONDITIONS FOR APPROVAL OF APPLICATION

SEC. 4. Applications may be approved by the Secretary under this Act only upon a determination that—

(1) The Corporation for which the application is made is incorporated in an eligible State in which the Corporation will operate;

(2) The Corporation has the legal authority under State law to carry out its functions in accordance with the provisions of this Act;

(3) The Corporation has a Board of Directors composed of not more than 12 members selected in the following manner:

(A) Two members appointed by the chief executive of the appropriate State,

(B) Not more than five members appointed by the Secretary, from individuals recommended by the Governor who are representative of the business, labor, and academic communities of the areas most severely injured by unemployment.

(C) Not more than 5 members selected by a process agreed upon by the Secretary and the chief executive of the appropriate State who are representative of the general public; and

(D) Not more than one more than one half of the members of the Board of Directors shall be members of the same political party;

(4) The Corporation shall be under the direction and control of the Board of Directors, and such Board shall have the authority to appoint a chief executive officer of the Corporation having sufficient authority to carry out the functions of the Corporation;

(5) The functions of the Corporation shall in addition to any other function contained in the articles of incorporation, be—

(A) Providing economic assistance to areas suffering high unemployment.

(B) Fostering where necessary new industry, through short term loans, guarantees, and assistance with respect to real estate acquisition, job training and program management;

(C) Entering into agreements with eligible lenders to provide loan guarantees to facilitate making loans available to business concerns whenever such lenders are reluctant to make such loans;

(D) Furnishing technical assistance designed to provide business concerns with business expertise in the areas of finance, management, sales, marketing, organization, government procurement and foreign investment; and

(6) For the purposes of the federal capital contributions paid under section 6 of this Act, the Corporation will provide assurances that all guarantee agreements will terminate not later than 10 years after the date of enactment of this Act, and that repayment of such contributions will be made, to the extent practicable, in accordance with section 9 of this Act.

CAPITAL CONTRIBUTIONS AUTHORIZED; DISTRIBUTIONS

SEC. 5. The Secretary shall from time to time set dates by which Conversion Assistance Corporations in eligible States may file applications for the payment of capital contributions in accordance with the provisions of this Act.

(b) From sums appropriated pursuant to section 12 for any fiscal year ending prior to July 1, 1973, the Secretary shall equitably distribute to each Conversion Assistance Corporation a Federal capital contribution based upon a consideration of the number of individuals unemployed or underemployed in such State, the amount requested in the application of the Corporation and the amount appropriated pursuant to section 12.

(c) No payment under this section shall exceed $10,000,000 to any Conversion Assistance Corporation, except that beginning on July 1, 1972, the Secretary may reallot sums pursuant to subsection (b) of this section in an amount that together with previous payments to a Conversion Assistance Corporation will exceed $10,000,000.

CONDITIONS OF AGREEMENTS

SEC. 6. (a) The Secretary is authorized to enter into agreements with Conversion Assistance Corporations approved for the purposes of this Act to provide Federal capital contributions to such Corporations. Any such agreement shall contain provisions adequate to assure that—

(1) The Conversion Assistance Corporation may, upon such terms and conditions as the Board of Directors of such Corporation may prescribe, enter into a contract and guarantee any loan or portion of a loan for a conversion project made by an eligible lender against loss as a result of the failure of any person to meet the terms of such loan subject to the following conditions—

(A) The person to whom the loan is made is a business concern located in an area of unemployment within an eligible State;

(B) The loan is required in order for such person to carry out a conversion project;

(C) Such person is not able to obtain such loan on reasonable terms and conditions without a guarantee under this Act;

(D) The loan bears interest at a rate not in excess of of 1½ per centum per year above the average prime interest rate in the Federal Reserve District in which the Conversion Assistance Corporation is located;

(E) The Corporation determines that there is reasonable assurance that such person will repay the loan;

(F) The conversion project for which the loan is made meets the criteria, established by regulation by the Secretary after consultation with each Corporation, for feasibility and reasonableness of costs; and

(G) The repayment period of the loan does not exceed 10 years after the date of enactment of this Act or June 30, 1982, whichever occurs first;

(2) Any contract of guarantee entered into pursuant to this Act shall obligate the Corporation to pay, upon default to an eligible lender the unpaid balance of the principal of the loan other than interest added to principal; and

(3) The Corporation shall fix a uniform annual fee, not in excess of one half of 1

per centum of the amount of any such guarantee, a uniform fee for any guarantee under this section which shall be payable at such time as may be determined by the Secretary in agreement with the chief executive officer of such Corporation.

(b) To the extent practicable having due regard for the purpose of this section the amount of any fee established pursuant to paragraph (3) of the preceding subsection shall be determined in accordance with sound actuarial practices and procedures.

TECHNICAL ASSISTANCE

SEC. 7. (a) Any Conversion Assistance Corporation approved under section 4 of this Act and receiving a Federal capital contribution shall provide technical assistance to business concerns in areas of unemployment within an eligible State concerning, but not limited to, financial, sales, marketing, organization, government procurement, and foreign investment matters.

(b) Any such Corporation is authorized to fix a service charge for such technical assistance payable by such business concern at such time and in such manner as may be determined by the Corporation.

DISTRIBUTION OF ASSETS

SEC. 8. (a) After June 30, 1982, and not later than September 30, 1982, there shall be a capital distribution of the assets of each Conversion Assistance Corporation assisted under this Act as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance of such assets at the close of June 30, 1982 as the total amount of federal capital contributions of such assets paid by the Secretary under this Act bears to the sum of such federal capital contributions and other assets of such Corporation.

(2) The remainder of such balance shall be paid to the Conversion Assistance Corporation.

(b) Under such regulations as the Secretary may prescribe consistent with the purposes of this Act, the Secretary may provide for capital distribution of the assets of a Conversion Assistance Corporation prior to June 30, 1982, whenever the Secretary determines that the provisions of this Act are no longer being complied with by any such Corporation or that there is no longer a need for the continued operation of any such Corporation.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) The provisions of this Act shall be administered by the Secretary of Commerce through the Economic Development Administration of the Department of Commerce.

(b) In addition to the authority conferred upon the Secretary under this Act, the Secretary shall have, in the performance of and with respect to the functions conferred by this Act, all of the authority and be subject to the same conditions as prescribed in section 701 of the Public Works and Economic Development Act of 1965.

(c) The Secretary in addition to any other authority conferred upon him by this Act, is authorized to agree to modify an agreement made under this Act and to compromise, waive, or release any right, title, claim, or demand, however arising or acquired under this Act.

(d) Financial transactions of the Secretary pursuant to this Act and vouchers approved by him in connection with such financial transactions shall be final and conclusive upon all officers of the government, except that all such transactions shall be subject to audit by the General Accounting Office at such times and in such manner as the Comptroller General may by regulation prescribe.

(e) The Secretary shall prepare annually for transmittal to the President and to the Congress a report setting forth the activities of the corporations assisted under this Act, including an estimate based on the most satisfactory data available to him of the number of jobs provided as a result of the assistance to such corporations under this Act.

RECORDS AND AUDIT

SEC. 10. (a) Each Conversion Assistance Corporation under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the payment received by the Corporations under this Act, of the total cost of the project or undertaking in connection with which such payments were used, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the Corporation that are pertinent to receiving payments under this Act.

DEFINITIONS

SEC. 11. As used in this Act, the term—

(1) "conversion project" means the planning and carrying out of any project by a business concern which is designed to facilitate that business concern's conversion or expansion in any business activities of such concern that will create permanent employment within an eligible State; and represents a change of product or a change in the marketing of a previously produced product; or represents an initial venture by a new firm operating in civilian markets;

(2) "Corporation" means a Conversion Assistance Corporation approved for the purposes of this Act;

(3) "eligible lender" means an eligible institution, an agency, or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose;

(4) "Secretary" means the Secretary of Commerce;

(5) "eligible State" means any State in which the Secretary determines, after consultation with the Secretary of Labor, that the rate of unemployment, seasonally adjusted, exceeds the rate of national unemployment for 6 consecutive months prior to any such determination, but in no event shall that determination be made after June 30, 1972.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973 and thereafter such sums as may be necessary to carry out the provisions of this Act.

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By Mr. MONDALE:

S. 1568. A bill to amend title II of the Social Security Act to extend from 22 to 26 the age limit for the receipt of child's insurance benefits thereunder by individuals attending school, and to permit reduced child's benefits to be paid to individuals attending school on a part-time basis, and to require notification of the availability of such benefits to those eligible by their 14th birthday. Referred to the Committee on Finance.

S. 1569. A bill to amend the Railroad Retirement Act of 1937 to extend from 22 to 26 the age limit for the receipt of a child's insurance annuity thereunder by individuals attending school, and to permit a reduced child's insurance annuity to be paid to individuals attending school on a part-time basis, and to require notification of the availability of such benefits to those eligible by their 14th birthday. Referred to the Committee on Labor and Public Welfare.

GREATER FLEXIBILITY IN EXTENDING BENEFITS TO STUDENTS

Mr. MONDALE. Mr. President, I introduce two bills today which would amend both the Social Security Act and the Railroad Retirement Act to provide greater flexibility in administration of benefits to eligible students. These bills are identical to S. 1638 and S. 1639 of the 91st Congress, which I introduced on March 24, 1969.

Amendments to both acts apply to the present programs which permit the administering agencies to pay the child's benefit to the child of deceased or disabled parents after he is 18, if he continues as a full-time student. The bills I propose would alter the present requirements in three ways: First, they would extend eligibility to half-time and three-quarter time students, allowing them reduced benefits; second, they would increase the maximum age at which benefits may be received from the 22d birthday to the 26th birthday, with benefits terminating in the first month after age 22 that the student becomes eligible for a baccalaureate degree; and third, they would require the administering agencies to notify persons who are potentially eligible for such benefits no later than their 14th birthday.

In the light of current statistics on higher education and of what we know of how students plan for college, I think the need for these amendments is clear.

Since 1965 the Social Security Administration and the Railroad Retirement Board have provided benefits to children of disabled or deceased parents until the age of 22, provided they remain full-time students. Much of this assistance has been in support of college students. At the end of fiscal year 1970, 529,999 students between 18 and 21 were receiving aid from the Social Security Administration, and roughly 6,800 undergraduates were receiving benefits from railroad retirement. In fiscal 1970 the average benefit payment was $83 per month—$996 per year—for social security, $115 per month, $1,380 per year—for railroad retirement.

Statistics are not available to show how many of those eligible for such benefits do not take advantage of them for programs of higher education. However, the changes proposed in these two bills will make these benefits much more responsive to the needs of potentially eligible students who are not able to use them within the present framework.

The changes do not contemplate costly new practices, but they will make it possible for many to receive benefits—and to better plan for the best use of these benefits—who are not now doing so.

There are three major effects of each bill, as I have mentioned. They are outlined as follows:

EXTENSION OF BENEFITS TO PART-TIME STUDENTS

Rather than limiting social security and railroad retirement child's benefits to full-time students only, these bills will

permit half-time and three-quarter-time students to receive benefits, as follows: Those attending school on a half-time basis will be eligible for one-half the amount of the full-time benefit for which they qualify; for students attending school with a three-quarter load, their full-time benefit will be reduced by one-fourth.

The result of this distribution of benefits will mean that the same total amount of benefit will be received by each student, and simply spread over a longer time period.

Consider the fact that current Office of Education estimates put the cost during 1970–71 for tuition, room and board for 1 year at a 4-year public institution at $1,179; at a private institution the estimate is $2,570.

If, as is usually the case where the head of the family is dead or disabled, the student receives little or no assistance from home, then part-time work is necessary to cover the half or more of his expenses which social security or railroad retirement benefits do not cover.

Extending benefits to students who cannot afford to go to school full time could make a crucial difference to many who could then plan and afford to work half or quarter time, receive their benefit and attend college with a reduced load.

The payment of benefits to part-time students is not a new concept in direct Government aid to college students. The Veterans' Administration GI bill permits reduced payments to half-time and quarter-time students similar to what I am now proposing for the social security and railroad retirement programs. And according to Veterans' Administration figures, the provision of aid to part-time students forms an impressive bulk of VA aid to college students: Only 49.6 percent of those receiving college aid through its programs in 1969 were fulltime students.

Further, the students eligible for aid under social security and railroad retirement are not only usually without aid from their families in meeting living expenses.

We as a nation are providing these very students the offer of educational aid because their families are at a financial disadvantage due to the loss or disablement of a parent or parents. But unless we make the offer truly responsive to their actual situation, which so often requires them to work during the college years, then this offer is meaningless to many of them.

EXTENDING MAXIMUM AGE OF ELIGIBILITY

These bills would extend the maximum age at which students can receive benefits under these programs from the 22d to the 26th birthdate, with the qualification that benefits shall terminate in the months in which he first becomes eligible for a baccalaureate degree.

There are several good reasons for thus adjusting the age of eligibility. It follows from extending benefits to part-time students, that we must also permit such students to be eligible for a longer period of time, so as not to cut off their benefits when they are only half or part way through a degree program.

However, the present cut-off date for benefits on the 22d birthdate is unrealistic even for a 4-year, full-time progam. The 1970 current population survey reports the median age of college seniors in October of 1970 at 21.9 years. Thus in October of 1970, half of college seniors then in school, most of them presumably headed for a June 1971 graduation, were just over a month away from their 22d birthday. If they were depending on social security or railroad retirement assistance they would be cut off from those benefits over 6 months before graduation from a 4-year course.

It seems to me that we should be willing to adjust to this reality. We should also provide flexibility that would allow benefits to the high school graduate who works for a year or two and then goes on to college. This decision to seek vocational or higher education after exposure to the working world is one that I feel our programs must encourage.

REQUIRING EARLY NOTIFICATION

It is really essential that students be notified when they begin high school as to the nature of the benefits they can expect to help them in continuing their education or vocational training. Only if this knowledge is available to them while they plan their high school courses can they best prepare for continuing their education.

At the present time the Railroad Retirement Board notifies those who will be eligible for continuing benefits only 90 days before their 18th birthday. The Social Security Administration makes its notification 5 months before the 18th birthday. By this time it is often too late to plan the appropriate courses to prepare for college. Many eligible students may already have graduated before their 18th birthday, or already made commitments which prevent them from attending college. They may have believed that the cost of attending college was beyond their means. The additional money available to them through these programs might have made the crucial difference to their decision—if they had known of their eligibility.

Many students who have the ability and desire to go to college do not attend simply because adequate finances are not available. In an Office of Education research project it was found that 92 percent of the young men in the highest achievement quartile from families in the highest income quartile enter college in the year following graduation. However, for young men of equal ability but from families in the lowest income quartile, the figure was only 61 percent. The dropoff among young women is even more dramatic—from 87 to 42 percent.

Numerous authorities have expressed the belief that the early high school years are critical in the decisions to attend college. The Veterans' Administration has for several years notified potential eligibles at age 13 of college aid benefits. The agency has done this on the advice of its psychological consultants, who hold that this information is critical at this age, in order that students may make the financial calculations and course decisions that can and will lead to college attendance or appropriate vocational training.

And in the amendments last year to the GI bill in Public Law 91–219, this practice of early notification was made an official requirement in the administration of benefits to children of disabled or deceased parents.

Surely, if we are to offer such very worthwhile and badly needed educational assistance, then we must provide information about it at the time—in early high school years—when the decisions are being made by those who are eligible which will prepare them to use it.

In conclusion, I would like to ask early and favorable action on these bills during this Congress. I feel very strongly that these changes will greatly improve the responsiveness of present programs to the educational conditions and realities of students today. These changes are greatly needed, and as soon as possible.

The educational benefits of both social security and railroad retirement programs offer needed assistance, and with this additional responsiveness to the real needs of those who are eligible, this assistance will reach many, many more of those for whom it was intended.

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By Mr. MONDALE (for Mr. JACKSON, Mr. ALLOTT, Mr. GRAVEL, and Mr. STEVENS) (by request):

S. 1571. A bill to provide for the settlement of certain land claims of Alaska Natives, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MONDALE. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I introduce several bills and ask unanimous consent to have printed in the RECORD the texts of the bills and an explanatory statement of Senator JACKSON in connection with each.

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

S. 1571

A bill to provide for the settlement of certain land claims of Alaska natives, 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 "Alaska Native Claims Settlement Act of 1971".

DECLARATION OF POLICY

SEC. 2. (a) Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by natives and native groups of Alaska, and that the purpose of this Act is to provide—

(1) a right for natives to receive land occupied by them as a primary place of residence or a primary place of business;

(2) a grant of land to the incorporated native villages for community use and expansion;

(3) a grant to the native Corporation of $25 million per year for 20 years beginning in fiscal year 1971;

(4) a grant to the native Corporation of the mineral rights in certain lands patented to individuals and incorporated native villages;

(5) a grant of certain additional land to the incorporated native villages; and

(6) a right for the native Corporation to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska.

(b) It is the intent of Congress to accom-

plish these aims rapidly, with certainty, and in conformity to the real economic and social needs of Alaska natives by avoiding litigation, by maximizing the participation by natives in decisions affecting their rights and property and by vestng in them as rapidly as prudent and feasible control over the land set aside and the Corporation organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy wardship or trusteeship; or (3) adding to the categories of property and institutions enjoying special tax privileges or to the legislations establishing special relationships between the United States Government and the State of Alaska.

(c) No provision of this Act is intended to replace or diminish any right, privilege, or obligation of Alaska natives as citizens of the United States or of Alaska, nor to relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights of welfare of Alaska natives as citizens of the United States or of Alaska.

(d) No provision of this Act shall constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any native organization, or any tribe, band, or identifiable group of American Indians.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "native" means any Alaska Indian, Eskimo, or Aleut who the Commission determines to be of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, and any other individual who the Commission determines to be a native under rules and regulations that it shall establish, but does not include any Tsimshian Indian;

(c) "native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in section 10 or 14 of this Act and which the Commission determines was on December 31, 1970, composed of twenty-five or more natives;

(d) "Commission" means the Alaska Native Commission established by this Act;

(e) "public land" means all Federal land and interests therein situated in Alaska except: (1) any improved land used in connection with the administration of any Federal installation: (2) land selections of the State of Alaska which have been patented or tentatively approved under the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 223); and (3) lands within the utility and transportation corridor which are described in the notice of proposed modification of classification of lands for multiple use management (Serial Nos. AA2779 and P–955) and the notice of proposed classification of lands for multiple use management (F–12423) published in the *Federal Register* on January 1, 1970 (35 Fed. Reg. 16–17), as corrected on February 4, 1970 (35 Fed. Reg. 2537).

(f) "Corporation" means the Alaska Native Development Corporation authorized to be established pursuant to this Act under the laws of the State of Alaska.

(g) "person" means any individual, firm, corporation, association, or partnership; and

(h) "incorporated native village" means any native village incorporated as a governmental unit under the laws of the State of Alaska.

DECLARATION OF SETTLEMENT

SEC. 4. (a) The provisions of this Act shall be regarded as full and final settlement and extinguishment of any and all claims against the United States, the State of Alaska and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska by any native or native group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), including claims pending before the Indian Claims Commission on the effective date of this Act.

(b) The Corporation may pay all reasonable attorney's fees and reasonable attorney's expenses, as determined by the Secretary in pursuing before the Indian Claims Commission any claims pending before the Indian Claims Commission on the effective date of this Act which are dismissed pursuant to this Act.

ALASKA NATIVE COMMISSION

SEC. 5. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence until June 30, 1992, and shall be composed of three members to be appointed by the President, all of whom upon appointment shall be full-time Federal employees. The Commission members shall be appointed with the advice and consent of the Senate. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the members of the Commission, but this provision shall not be deemed to preclude a native from serving as a member: *Provided,* That such native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commission shall be three years, except that the first Commission shall be composed of one member appointed for a one-year term, one member appointed for a two-year term, and one member appointed for a three-year term. Any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member of the Commission may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall receive compensation at a rate equal to that provided for in level V of the Executive Schedule and section 5316 of title 5, United States Code. The other two Commissioners shall receive compensation at a rate equal to that provided for grade GS–18 in section 5332 of title 5, United States Code. All Commission members may be allowed travel and transportation expenses authorized by law when engaged in the performance of services for the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it shall hold hearings or conduct other proceedings at any other place mutually agreed to by the Chairman of the Commission and the person involved in the hearing and proceeding. The Commission shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members, but any one member upon order of the Commission shall conduct any hearing or other proceeding provided for in this Act and submit the transcript of such hearing or proceeding to the entire Commission for its action thereon. Such transcript shall be made available to the parties before any final action of the Commission. An opportunity to appear before the Commission shall be afforded any party prior to any final action affecting such party and the Commission may afford the party an opportunity to submit additional evidence as may be required for a full and true disclosure of the facts. Each official action of the Commission shall be entered of record and its hearings and records thereof shall be open to the public. The Commission is authorized to make such rules and regulations as it deems necessary for the orderly transaction of its proceedings, which shall provide for adequate notice of hearings or other proceedings, to all parties. Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents and administer oaths. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record which notice shall state the name of the witness and the time and place of the taking of his deposition.

(g) Each decision made by the Commission shall show the date on which it was made and shall bear the signatures of the members of the Commission who concur therein and, upon issuance of a decision under this Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(h) Any decision issued by the Commission under this section shall be subject to judicial review by the United States district court in Alaska upon the filing in such court within thirty days from the date of such decision of a petition by the person aggrieved by the decision praying that the action of the Commisison be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which such decision complained of was issued. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commisison for such further action as it directs. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the petitioner is located and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(i) The duties and responsibilities of the Commission shall for the purposes of this Act, among others, be:

(1) the determination of those individuals that qualify as natives and those villages that qualify as native villages and the issuance of the necessary rules and regulations to cover the procedure for such determination;

(2) the preparation of the roll, the issuance of rules and regulations applicable thereto,

and the hearing of claims filed by any applicant denied enrollment;

(3) the appointment of the incorporators of the Corporation and, in conjunction with the Secretary, the approval of the articles of incorporation before they are filed;

(4) the establishment of geographic regions under section 9 of this Act;

(5) the issuance of rules and regulations for and the approval of land transactions as provided under this Act;

(6) the submission of reports to Congress as provided in section 17 of this Act; and

(7) such other duties and responsibilities as are provided under this Act.

ENROLLMENT

SEC. 6. The Commission, in accordance with such regulations as the Commission may issue, shall prepare a roll listing all natives born on or before December 31, 1970, and living on the date of enactment of this Act. Any native whose name does not appear on the roll who was born on or before December 31, 1970, and who was living on the date of enactment of this Act shall be entitled to have his name so listed upon proof of eligibility satisfactory to the Commission. The Secretary shall make available to the Commission such personnel, services and material as he deems reasonable in connection with the preparation of the roll provided for herein. Any applicant denied enrollment shall be notified in writing thereof and such applicant and any other interested person shall be given an opportunity for a hearing by the Commission and judicial review as provided in section 5 of this Act.

ALASKA NATIVE DEVELOPMENT CORPORATION

SEC. 7. (a) There is authorized to be established the Alaska Native Development Corporation as an Alaskan Corporation which will not be an agency or establishment of the United States Government. The Corporation, for a period of twenty years after its incorporation, shall be subject to the provisions of this Act, and to the extent consistent with this Act, to the laws of the State of Alaska.

(b) The Commission shall appoint five incorporators, one of whom shall be the Chairman of the Commission, who shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the Commission and the Secretary. The incorporators shall serve as the Corporations initial board of directors and shall serve until the permanent directors have been elected as provided in subsection (c) of this section. The Secretary is authorized to pay the sum of $1,000,000 to the Corporation as paid in capital.

(c) The management of the Corporation shall be vested in a board of directors which shall consist of seventeen members elected by the stockholders of the Corporation on the following basis:

(1) One member representing and elected by the stockholders living in each of the twelve regions of Alaska as determined by section 9 of this Act; and

(2) Five members representing and elected by all of the stockholders.

Members of the Board so elected shall serve for terms of four years or until their successors have been elected and qualified: *Provided*, That among the directors first elected, five shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further*, That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of the Corporation: *Provided*, That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Corporation.

(d) The Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. No officer of the Corporation shall engage in any other business during the period of his employment by the Corporation. The President shall be responsible for carrying out the Corporation's functions in a businesslike manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board, and shall appoint such other employees as the board deems appropriate. Such employees shall be subject to standards and requirements similar to those applicable to Federal civilian employees, but shall not be regarded as Federal employees for any purpose.

(e) The Corporation shall be authorized to have one million shares of common stock, without par value, divided into such classes of shares as may be authorized in the articles of incorporation. Until June 30, 1992, shares of stock of the corporation shall be issued only to natives and each native shall be issued ten shares of stock immediately upon the listing of his name on the roll authorized by section 6 of this Act. Until June 30, 1992, the shares authorized to be issued under this subsection shall not be sold, transferred, assigned, or otherwise disposed of or mortgaged or pledged by the holder thereof except by testamentary disposition to the surviving spouse and heirs under state law or intestate succession. Any succeeding stockholder shall, until June 30, 1992, be prohibited from transferring, mortgaging, or pledging such shares in the same manner and to the same extent as the initial stockholder. Until June 30, 1992, the stock issued pursuant to this section shall not be subject to Federal or State estate or inheritance tax laws.

(f) the Corporation shall, in accordance with such terms and conditions as the board may prescribe and consistent with the laws of the State of Alaska and for the benefit of the stockholders thereof, invest its funds; make dividend payments to the stockholders at such times as the board of directors deems appropriate; provide for the lending of funds to individuals or organizations for the construction of homes and other purposes that would promote economic development of the natives; provide loans or grants to native villages, or regional or governing bodies or native corporation for the purpose of fostering the health and welfare of the people; provide loans for the education of individual natives; provide emergency or charitable grants and loans to individuals or communities in times of distress; sell, lease, or otherwise dispose of its assets, both real and personal; and promote the economic development of the native and the native villages to the greatest possible extent. The Corporation shall establish such rules and procedures as it deems appropriate in carrying out the provisions of this subsection. For a period of twenty years after incorporation, the Corporation shall not, in any one fiscal year, issue dividends or make any unsecured loans, of more than one-half of the income received by the Corporation from the following sources during the previous fiscal year: (1) corporate profit, (2) annual contributions as provided in subsection (h) of this section or section 8, and (3) income received from disposal of minerals patented to it pursuant to subsection (e) of section 12 of this Act. Neither the annual contributions made to the Corporation under subsection (h) of this section or section 8 nor the income received by the Corporation prior to June 30, 1992, from disposal of minerals patented to it pursuant to subsection (e) of section 12 of this Act shall be subject to Federal or State tax laws.

(g) The Corporation shall be subject to audit by the General Accounting Office until June 30, 1992. After final audit by the General Accounting Office and the filing of a summary financial report with the Congress, the limitations established under this section applicable to the Corporation shall terminate and the Corporation shall continue in business under the applicable laws of the State of Alaska.

(h) The Secretary is authorized to and shall pay to the Corporation beginning in fiscal year 1972 the sum of $24,250,000 and on July 1 of each fiscal year thereafter for a period of 19 years the sum of $25,000,000. There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payments authorized in this subsection.

REVENUE SHARING

SEC. 8. (a)(1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease after the date of enactment of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 *et seq.*), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351, *et seq.*) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the date of enactment of this Act, shall be distributed as provided in the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State of Alaska and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid to the Corporation. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid to the Corporation, and the respective shares of the State of Alaska and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the date of enactment of this Act shall provide that prior to calculating the respective shares of the State of Alaska and the United States in such proceeds under the Statehood Act: (A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid to the Corporation; and (B) 2 per centum of all revenues derived from rentals and bonuses shall be deducted and paid to the Corporation.

(b) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State of Alaska under the Statehood Act after the date of enactment of this Act, however, shall expressly reserve for the benefit of the natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State of Alaska)

of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State of Alaska; (2) a right to receive 2 per centum of all revenues derived by the State of Alaska from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State of Alaska under (i) leases of the United States which are or may be assumed by the State of Alaska under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case of lands heretofore or hereafter selected by the State of Alaska, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State of Alaska by January 1, 1969: *Provided, however,* That the bonus revenues received by the State of Alaska at the September 1969 sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale up to the date of December 31, 1970. Any royalty, and rentals received pursuant to such sale after December 31, 1970, shall be subject to the revenue sharing provisions of this section.

(c) Revenues received by the United States or the State of Alaska as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid to the Corporation on account thereof. All royalty and other revenues required to be paid under this section shall be paid to the Corporation promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State of Alaska as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State of Alaska elects to take royalties in kind, there shall be paid to the Corporation on account thereof an amount equal to the royalties that would have been paid to the Corporation under the provisions of this section had the royalty been taken in cash.

(d) The payments required pursuant to this section shall continue only until $500,000,000 has been paid to the Corporation. Thereafter the provisions of this section shall not only apply and the reservation required in patents under subsection (b) of this section shall be of no further force and effect.

(e) The provisions of this section requiring revenue sharing by the State of Alaska shall be enforceable by the United States on behalf of the natives but this shall not preclude the Corporation from pursuing any remedies available to it in the event of default by the State of Alaska. In the event of default by the State of Alaska in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and paid to the Corporation the amount of any underpayment from the share of mineral revenues from public lands in Alaska which would otherwise be paid to the State of Alaska pursuant to Federal Law.

(f) (1) The provisions of this section requiring revenue sharing by the State of Alaska and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by natives and as to which the State of Alaska was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore, in the event that the State of Alaska initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 8 all rights of land selection granted to the State of Alaska by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation.

(2) Any civil action commenced by the State of Alaska or by any other parties to contest in any manner the purpose and the substantive operation of this section 8 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the natives and the State of Alaska to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State of Alaska, the natives and the United States.

(3) In the event that rights of land selection granted to the State of Alaska by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (f)(1) hereof, the State of Alaska's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (f)(1).

(g) The respective shares of the United States and the State of Alaska with respect to payments to the Corporation required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (b) hereof; and

(2) then, from sources identified under subsection (a) hereof.

(h) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

REGIONS

SEC. 9. For purposes of this Act, the State of Alaska shall be divided by the Commission within one year after the date of enactment of this Act into twelve geographic regions, with each region composed as far as practicable of natives having a common heritage and sharing common interest. In the absence of good cause shown to the contrary such regions shall approximate the areas covered by the operations of the following existing native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Ekutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tititlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and shall be final.

WITHDRAWAL OF PUBLIC LAND

SEC. 10. (a) Public Land Order Numbered 4582, 34 *Federal Register* 1025 and Public Land Order Numbered 4962, 35 *Federal Register* 18874 are hereby revoked.

(1) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska, except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4, and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, including the mining laws, and the mineral leasing laws, in each township, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, which encloses all or part of any native village listed in paragraph (2) of this subsection plus all public lands in the State of Alaska, except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4 and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining laws, and the mineral leasing laws, in each township that is contiguous to or cornering on the township which encloses said native village as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available. During a period of one year from the date of withdrawal, each native village shall select, in accordance with rules and regulations established by the Secretary, an area equal to three townships from within the townships that are contiguous to or corner on the township enclosing the native village. All selections made under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water. At the end of the said one-year period, all townships or portions thereof withdrawn under the authority of this subsection, except those enclosing listed native villages and that area selected by the native villages, and also except those located in the National Wildlife Refuge System and naval petroleum reserve numbered 4 shall be subject to the provisions of subsection (b) hereof and shall be deemed to have been withdrawn under the provisions of said subsection. At the end of the said one-year period, all townships or portions thereof withdrawn under the authority of this subsection, except those enclosing listed native villages and that area selected by the native village, located in the National Wildlife Refuge System and naval petroleum reserve numbered 4, shall terminate.

(2) The following native villages are qualified for withdrawals under the provisions of this subsection:

| NAME OF PLACE AND REGION |
|---|
| Akiachak, Southwest Coastal Lowland |
| Akiak, Southwest Coastal Lowland |
| Akutan, Aleutian |
| Alakanuk, Southwest Coastal Lowland |
| Aleknagik, Bristol Bay |
| Alatna, Koyukuk-Lower Yukon |

Allakaket, Koyukuk-Lower Yukon
Ambler, Bering Strait
Anaktuvuk Pass, Arctic Slope
Andreafsey, Southwest Coastal Lowland
Aniak, Southwest Coastal Lowland
Anvik, Koyukuk-Lower Yukon
Arctic Village, Upper Yukon-Porcupine
Atka, Aleutian
Atkasook, Arctic Slope
Barrow, Arctic Slope
Beaver, Upper Yukon-Porcupine
Belkofsky, Aleutian
Bethel, Southwest Coastal Lowland
Bill Moore's, Southwest Coastal Lowland
Biorka, Aleutian
Birch Creek, Upper Yukon-Porcupine
Brevig Mission, Bering Strait
Buckland, Bering Strait
Candle, Bering Strait
Cantwell, Cook Inlet
Canyon Village, Upper Yukon-Porcupine
Chalkyitsik, Upper Yukon-Porcupine
Chanilut, Southwest Coastal Lowland
Chefornak, Southwest Coastal Lowland
Chevak, Southwest Coastal Lowland
Chignik, Kodiak
Chignik Lagoon, Kodiak
Chignik Lake, Kodiak
Chistochina, Copper River
Chukwuktoligamute, Southwest Coastal Lowland
Circle, Upper Yukon-Porcupine
Clark's Point, Bristol Bay
Copper Center, Copper River
Crooked Creek, Upper Kuskokwim
Deering, Bering Strait
Dillingham, Bristol Bay
Eagle, Upper Yukon-Porcupine
Dot Lake, Tanana
Eek, Southwest Coastal Lowland
Egegik, Bristol Bay
Eklutna, Cook Inlet
Ekwok, Bristol Bay
Elim, Bering Strait
Emmonak, Southwest Coastal Lowland
English Bay, Cook Inlet
False Pass, Aleutian
Fort Youkon, Upper Yukon-Porcupine
Gakona, Copper River
Galena, Koyukuk-Lower Yukon
Gambell, Bering Sea
Georgetown, Upper Kuskokwim
Golovin, Bering Strait
Goodnews Bay, Southwest Coastal Lowland
Grayling, Koyukuk-Lower Yukon
Gulkana, Copper River
Hamilton, Southwest Coastal Lowland
Holy Cross, Koyukuk-Lower Yukon
Hooper Bay, Southwest Coastal Lowland
Hughes, Koyukuk-Lower Yukon
Huslia, Koyukuk-Lower Yukon
Igiugig, Bristol Bay
Iliamna, Cook Inlet
Inalik, Bering Strait
Ivanof Bay, Aleutian
Kaktovik, Arctic Slope
Kalskag, Southwest Coastal Lowland
Kaltag, Koyukuk-Lower Yukon
Kariuk, Kodiak
Kasigluk, Southwest Coastal Lowland
Kiana, Bering Strait
King Cove, Aleutian
Kipnuk, Southeast Coastal Lowland
Kivalina, Bering Strait
Kobuk, Bering Strait
Koliganek, Bristol Bay
Kokhanok, Bristol Bay
Kongiganak, Southwest Coastal Lowland
Kotlik, Southwest Coastal Lowland
Kotzebue, Bering Strait
Koyuk, Bering Strait
Koyukuk, Koyukuk-Lower Yukon
Kwethluk, Southwest Coastal Lowland
Kwigillingok, Southwest Coastal Lowland
Larsen Bay, Kodiak
Levelock, Bristol Bay
Lime Village, Upper Kuskokwim
Lower Kalskag, Southwest Coastal Lowland
McGrath, Upper Kuskokwim
Makok, Koyukuk-Lower Yukon
Manokotak, Bristol Bay
Marshall, Southwest Coastal Lowland
Mary's Igloo, Bering Strait
Medfra, Upper Kuskokwim
Mekoryuk, Southwest Coastal Lowland
Mentasta Lake, Copper River
Minchumina Lake, Upper Kuskokwim
Minto, Tanana
Mountain Village, Southwest Coastal Lowland
Nabesna Village, Tanana
Naknek, Bristol Bay
Napaimute, Upper Kuskokwhim
Napakiak, Southwest Coastal Lowland
Napaskiak, Southwest Coastal Lowland
Nelson Lagoon, Aleutian
Newhalen, Cook Inlet
Nenana, Tanana
New Stuyahok, Bristol Bay
Newtok, Southwest Coastal Lowland
Nightmute, Southwest Coastal Lowland
Nikolai, Upper Kuskokim
Nikolski, Aleutian
Ninilchik, Cook Inlet
Noatak, Bering Strait
Nome, Bering Strait
Nondalton, Cook Inlet
Nooiksut, Arctic Slope
Noorvik, Bering Strait
Northeast Cape, Bering Sea
Northway, Tanana
Nulato, Koyukuk-Lower Yukon
Nunapitchuk, Southwest Coastal Lowland
Ohogamiut, Southwest Coastal Lowland
Old Harbor, Kodiak
Oscarville, Southwest Coastal Lowland
Ouzinkie, Kodiak
Paradise, Koyukuk-Lower Yukon
Paulof Harbor, Aleutian
Pedro Bay, Cook Inlet
Perryville, Kodiak
Pilot Point, Bristol Bay
Pilot Station, Southwest Coastal Lowland
Pitkas Point, Southwest Coastal Lowland
Platinum, Southwest Coastal Lowland
Point Hope, Arctic Slope
Point Lay, Arctic Slope
Portage Creek (Ohgsenakale), Bristol Bay
Port Graham, Cook Inlet
Port Lions, Kodiak
Port Heiden (Meshick), Aleutian
Quinhagak, Southwest Coastal Lowland
Rampart, Upper Yukon-Porcupine
Red Devil, Upper Kuskokwim
Ruby, Koyukuk-Lower Yukon
Russian Mission (Kuskokwim) (or Chauthalue), Upper Kuskokwim
Russian Mission (Yukon) Southeast Coastal Lowland
St. George, Aleutians
St. Mary's, Southwest Coastal Lowland
St. Michael, Bering Strait
St. Paul, Aleutians
Salamatof, Cook Inlet
Sand Point, Aleutians
Savonoski, Bristol Bay
Savoonga, Bering Sea
Scammon Bay, Southwest Coastal Lowland
Selawik, Bering Strait
Shageluk, Koyukuk-Lower Yukon
Shaktoolik, Bering Strait
Sheldon's Point, Southwest Coastal Lowland
Shishmaref, Bering Strait
Shungnak, Bering Strait
Siana, Copper River
Sleetmute, Upper Kuskokwim
South Naknek, Bristol Bay
Squaw Harbor, Aleutians
Stebbins, Bering Strait
Stevens Village, Upper Yukon-Porcupine
Stony River, Upper Kuskokwim
Tanacross, Tanana
Tanana, Koyukuk-Lower Yukon
Telida, Upper Kuskokwim
Teller, Bering Strait
Tetlin, Tanana
Togiak, Bristol Bay
Toksook Bay, Southwest Coastal Lowland
Tuluksak, Southwest Coastal Lowland
Tuntutuliak, Southwest Coastal Lowland
Tununak, Southwest Coastal Lowland
Twin Hills, Bristol Bay
Tyonek, Cook Inlet
Ugashik, Bristol Bay
Unalakleet, Bering Strait
Unalaska, Aleutian
Unga, Aleutian
Uyak, Kodiak
Venetie, Upper Yukon-Porcupine
Wainwright, Arctic Slope
Wales, Bering Strait
White Mountain, Bering Strait

(b) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public land in the State of Alaska, except land withdrawn or reserved for national defense purposes, including naval petroleum reserve numbered 4, and land in the National Park System and the National Wildlife Refuge System subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, including the mining laws and the mineral leasing laws in each township that is contiguous to or cornering on the townships surrounding the township which encloses each native village as set forth in paragraph (1) of subsection (a) of this section as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available.

(c) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4, and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining laws, and the mineral leasing laws, in each section, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, outside the areas withdrawn and selected under subsection (a) of this section or outside of the areas withdrawn under subsection (a) of section 14 of this Act, which encloses land occupied, as determined by the Commission, by a native as a primary place of residence on December 31, 1970. Determination of land occupied by a native as a primary place of residence on December 31, 1970 shall be made by the Commission upon application filed with the Commission by such native within two years after the effective date of this Act.

(d) Pending the disposition of any land withdrawn under this section or section 14, the applicable laws and regulations, other than the mining laws and the mineral leasing laws, shall govern the use, management, and administration of such land, including the right to acquire, grant, or use leases, permits, or rights-of-way under such terms and conditions as the Secretary may establish.

(e) Withdrawals made pursuant to subsection (b) of this section shall terminate five years after the date of enactment of this Act for those lands the surface estate of which the Corporation has not designated for patent to native villages pursuant to section 12(a) and 12(d) and the mineral estate of which the Corporation has not designated for patent to itself pursuant to section 12(e). Withdrawals made pursuant to subsection (c) of this section may be terminated by the Secretary prior to June 30, 1992, upon issuance of a patent to the native occupying land within such area or upon the relocation of such native of his primary place of residence as determined by the Commission outside such withdrawn area. With-

drawals of minerals covered by the mining laws and the mineral leasing laws in lands located in naval petroleum reserve numbered 4 made pursuant to subsection (a) of this section may be terminated by the Secretary prior to June 30, 1992.

SURVEYS

SEC. 11. The Secretary shall survey the areas selected or designated for conveyance to incorporated native villages pursuant to the provisions of this Act. He shall monument only exterior boundaries of the selected or designated areas at angle points and at intervals of approximately one mile on straight lines. No ground survey or monumentation will be required along meanderable water boundaries. He shall survey within the areas selected or designated land occupied as a primary place of residence, a primary place of business, and for other purposes, and any other land to be patented under this Act.

CONVEYANCE OF LANDS

SEC. 12. (a) Upon application of any native village listed in section 10 of this Act, which is an incorporated native village, filed with the Commission and upon certification thereof by the Commission, the Secretary shall, until June 30, 1992, issue a patent to the surface estate, without payment therefor, to such applicant incorporated native village of 92,160 acres of land subject to all valid existing rights, from any public land within areas withdrawn and selected by such native village under the provisions of subsection (a) of section 10 of this Act: *Provided, however*, That if because of the lack of public lands a patent to the surface estate to any such applicant incorporated native village of 92,160 acres is not possible, the Secretary shall patent to such incorporated native village such surface estate of public land withdrawn under the provisions of subsection (b) of section 10, as the Corporation may designate, without payment therefor and subject to all valid existing rights, which are necessary to provide a total surface estate patented to such incorporated native village of 92,160 acres. Designations made for each native village under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

Upon receipt of a patent or patents to land under the provisions of this subsection (a) the incorporated native village:

(1) shall issue deeds to the occupants, without payment therefor, for any tracts occupied by Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to all valid existing rights;

(2) shall issue deeds to the occupants, either without payment therefor or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts, occupied by non-natives as a primary place of residence or a primary place of business, subject to all valid existing rights: *Provided*, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(3) shall issue deeds to the occupants, either without payment therefor or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to all valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(4) may issue deeds, subject to all valid existing rights, to all others.

(b) Upon application of any native village listed in section 14 of this Act, which is an incorporated native village, filed with the Commission and upon certification thereof by the Commission, the Secretary shall, until June 30, 1992, issue a patent to the surface estate, without payment therefor, to such applicant incorporated native village of 23,040 acres of land, subject to all valid existing rights, from any public land within areas withdrawn under the provisions of section 14 of this Act.

Upon receipt of a patent or patents to land under the provisions of subsection (b) the incorporated native village:

(1) shall issue deeds to the occupants, without payment therefor, for any tracts occupied by natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to all valid existing rights;

(2) shall issue deeds to the occupants, either without payment therefor or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts occupied by non-natives as a primary place of residence or a primary place of business, subject to all valid existing rights: *Provided*, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(3) shall issue deeds to the occupants, either without payment therefor or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to all valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(4) may issue deeds, subject to all valid existing rights, to all others.

(c) Upon application filed with the Commission and certification thereof, the Secretary shall, until June 30, 1992, issue a patent to the surface estate of up to, but not to exceed, 160 acres of land, subject to all valid existing rights, from any public lands within the areas withdrawn for natives under subsection (c) of section 10 of this Act, without payment therefor, to any native occupying land within such 160 acres on the date of enactment of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(d) (1) Within a period of 5 years after the date of enactment of this Act the Corporation shall designate additional land for the benefit of each native village from within areas withdrawn under subsection (b) of section 10 of this Act. In designating land for the benefit of each native village, the Corporation shall take into account such factors as population, subsistence needs, traditional way of life of the occupants, economic resources, and the nature and value of the land designated. The land designated under this subsection shall in the aggregate total 40 million acres reduced by the total number of acres patented or to be patented to individuals or incorporated native villages pursuant to subsections (a), (b), and (c) of this section 12. Designations made for each native village under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

(2) Contemporaneous with the issuance of a patent to each incorporated native village under subsection (a) hereof, or as soon thereafter as possible, the Secretary shall issue a patent to the surface estate without payment therefor subject to all valid existing rights to such additional public land designated by the Corporation for the benefit of each such native village pursuant to paragraph (1) of this subsection (d).

(e) Contemporaneous with the issuance of a patent to individuals or incorporated native villages as provided in subsections (a), (b), (c) and (d) hereof, the Secretary shall, with the exception of those lands located in the National Wildlife Refuge System, and land withdrawn or reserved for national defense purposes, including naval petroleum reserve numbered 4, issue a patent or patents to all minerals in such lands covered by the mining laws and the mineral leasing laws, without payment therefor and subject to all valid existing rights, to the Corporation: *Provided, however*, That contemporaneous with the issuance of a patent to incorporated native villages, as provided in subsection (a) hereof, of land located in the National Wildlife Refuge System or naval petroleum reserve numbered 4, the Secretary shall patent to the Corporation all minerals covered by the mining laws and the mineral leasing laws in such public land withdrawn under the provisions of subsection (b) of section 10 as the Corporation may designate, without payment therefor and subject to all valid existing rights, equal to the number of acres the surface estate of which is patented to incorporated native villages and located in the National Wildlife Refuge System or naval petroleum reserve numbered 4. Designations made under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

(f) Where, prior to patent of any land or interest therein, under this section, a lease, contract, or permit has been issued for the utilization of resources, such patent shall contain provisions making the patent subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. After the issuance of a patent for the land or interest therein subject to such lease, contract, or permit, all income derived from any such lease, contract, or permit shall be received by the patentee except that the administration of such lease, contract or permit shall continue to be conducted by the lessor, contractor, or permitter.

MINERAL LEASING ACT

SEC. 13. Deposits of all minerals included under the mineral leasing laws, including but not limited to, coal, phosphate, sodium, potassium, oil, oil shale, or gas located in all public lands in Alaska except land within naval petroleum reserve numbered 4 shall be subject to disposition by the Secretary under the terms of this Act. Except as otherwise provided in section 12(e) herein, after the date of enactment of this Act, the Secretary is authorized to dispose of such deposits only by competitive bidding, but otherwise under the provisions of the applicable mineral leasing law. He shall prescribe by regulation the procedures to be used for competitive bidding. The term "mineral leasing laws" as used in this section means only the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C., secs. 181–283), and the Mineral Leasing Act for Acquired Lands (30 U.S.C., secs. 351–359).

THE TLINGIT-HAIDA SETTLEMENT

SEC. 14. (a) There are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska, except land withdrawn or reserved for national defense purposes other than naval petroleum reserve numbered 4, subject to all valid existing rights, from all forms of appropriation under the public land

laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining laws and the mineral leasing laws, in each township as shown on current plats of survey or protraction diagrams of the Bureau of Land Management or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, which encloses all or part of the following native villages:

Angoon, Southeast
Craig, Southeast
Hoonah, Southeast
Hydaburg, Southeast
Kake, Southeast
Kassan, Southeast
Klawock, Southeast
Klukwan, Southeast
Saxman, Southeast
Tatitlek, Gulf of Alaska
Yakutat, Southeast

(b) The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of *The Tlingit and Haida Indians of Alaska, et al . . The United States*, No. 479000, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431), is in lieu of the additional acreage of up to 69,120 acres to be conveyed to each village listed in section 12 of this Act which qualifies as an incorporated native village.

(c) Any and all claims of the Tlingit and Haida Indians, including but not limited to, the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of The Tlingit and Haida Indians of Alaska, et al. versus The United States, No. 479000 are hereby extinguished.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 15. No native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

REVOCATION OF RESERVATIONS

SEC. 16. Notwithstanding any other provision of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial order for native use or for administration of native affairs, including those created under the Act of May 31, 1938 (52 Stat. 593), are hereby revoked subject to any valid existing rights of non-natives. This section shall not apply to the Annette Island Reserve established by the Act of March 3, 1891 (26 Stat. 1101).

REVIEW BY CONGRESS

SEC. 17. The Commission and the Secretary shall submit to the Congress annual reports on implementation of this Act. Such reports are to be filed by the Commission until its termination, and by the Secretary annually until June 30, 1992. At the beginning of the first session of Congress preceding June 30, 1992, the Commission and the Secretary will submit, through the President, a joint report of the status of the natives and native groups in Alaska, and a summary of actions taken under this Act, together with such recommendations as may be appropriate for continuation or modification of any provisions of this Act which will specifically expire as of June 30, 1992.

APPROPRIATIONS

SEC. 18. There is authorized to be appropriated to the Secretary and to the Commission such sums as may be necessary to carry out the functions and responsibilities including payments that he is required to perform under the provisions of this Act. Such sums shall remain available until expended.

PUBLICATION

SEC. 19. The Secretary is authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C.) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 20. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

SEPARABILITY

SEC. 21. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

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ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1971—STATEMENT OF SENATOR JACKSON

On behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT), the two Senators from Alaska (Mr. GRAVEL and Mr. STEVENS) and myself, I send to the desk for appropriate reference a bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes.

Mr. President, this measure was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the Executive communication accompanying this draft proposal be printed in the Record at this point in my remarks.

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., April 5, 1971.*

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "To provide for the settlement of certain land claims of Alaska natives, and for other purposes."

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

This bill sets out the recommendations of this Administration for solution of the land claims of Alaska natives.

The proposed bill, through a combination of providing land and money as settlement for the native claims, will provide an equitable solution to the claims made by the natives of Alaska. It will, on the one hand provide land that is necessary for the living and subsistence needs of those natives who continue to rely upon the land for their living, while at the same time provide an economic settlement both in terms of cash contributions and patents to land and mineral rights which we consider to be generous and equitable which will be used by the natives for promoting their economic development to the fullest extent possible. It is our firm belief that the economic development of the Alaska natives will be of benefit, not only to themselves, but to all of Alaska as well as all Americans.

Following is a discussion of the basic provisions of our proposed bill:

Section 1 of the bill is a citation section and provides that the Act may be cited as the "Alaska Native Claims Settlement Act of 1971".

Section 2 of the bill sets forth the Declaration of Policy. It states that Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by natives and native groups of Alaska. It further states that the intent of the bill is to provide: (1) a right for natives to receive certain land occupied by them, (2) a grant to incorporated native villages for community use and expansion, (3) a grant of $500 million to the native Corporation, (4) a grant to the native Corporation of mineral rights in certain patented lands, (5) a grant of certain additional lands to incorporated native villages, and (6) a right to receive a portion of the revenues from the leasing and sale of mineral resources up to a total of $500 million.

Section 2 also provides that it is the intent of Congress to accomplish these ends with rapidity and with certainty and in conformity with the economic and social needs of the Alaska natives, but without establishing any permanent racially defined institution, rights privileges, or obligations, without creating a reservation system or a lengthy ward or trusteeship; without adding to the categories of property or institutions that enjoy special tax privileges; or without adding to the legislation that has established special relationships between the United States and the State of Alaska.

Section 2 makes it clear that no provision of the Act is intended to replace or diminish any right, privilege, or obligation of any Alaska native as a citizen of the United States or of Alaska, or diminish any obligation of the United States or Alaska to protect or promote the rights and welfare of the natives as citizens. Section 2 also makes it clear that no part of this Act shall constitute a basis for renegotiating or legislating upon any past settlement involving the land claims of any American Indian, or constitute a precedent for any other settlement.

Section 3 of the bill is a definition section in which are defined the terms that are commonly used throughout the bill. Excluded from the definition of "public land" are improved lands used in connection with any Federal installation, lands which have been patented or tentatively approved for patent to the States and lands within the utility and transportation corridor.

Section 4 of the bill contains the Declaration of Settlement. It provides that this Act is to be regarded as full and final settlement and extinguishment of any and all claims against the United States, the State of Alaska or others based upon the aboriginal title, right, use, or occupancy of land in Alaska by the natives. It also provides for payment of attorneys' fees by the Government in connection with claims pending before the Indian Claims Commission that are dismissed pursuant to the provisions of this Act.

In setting the compensation to be received by the attorneys, we believe that the payments should be based on proof of work performed in connection with the pending claims, with the amount of the payment being based upon an hourly rate for the hours of proven work. The hourly rate paid each attorney would be that rate generally recognized for attorneys practicing in the area where each of the claimant attorneys practice. Our investigation of the cases pending before the Indian Claims Commission reveals that $250 thousand will be more than adequate to cover the compensation of the attorneys handling the pending cases and we have added this sum to the amount that the Secretary is directed to pay to the Corporation in fiscal 1973 by section 7(h) of the bill to cover such costs.

Section 5 of the bill creates the Alaska Native Commission. The Commission will be made up of three members, all of whom are to be appointed by the President with the advice and consent of the Senate. The Commission shall exist until June 30, 1992. The Commission terms are for three years with the terms being staggered. The Commission will be located in Alaska and will have necessary staff to support its work. The principal functions of the Commission are: (1) to determine who qualifies as natives and what villages qualify as native villages, (2) the preparation of the roll of natives, (3) the appointment of incorporators of the Alaska Native Development Corporation, (4) the establishment of geographic regions, (5) the issuance of rules and regulations and the ap-

proval of land transactions, (6) the submission of required reports to Congress, and (7) any other duties required by the Act.

Section 6 provides the enrollment of the Alaska natives. The roll will be prepared by the Commission under rules and regulations issued by them and will be a listing of the natives of Alaska born on or before December 31, 1970, and living on the date of enactment of the Act. The section directs the Secretary of the Interior to make available to the Commission for their use in connection with the preparation of the roll such personnel, services, and material as he deems reasonable. This will allow the Commission to draw upon the resources and expertise of the Bureau of Indian Affairs in connection with the preparation of the roll.

Section 7 authorizes the establishment of the Alaska Native Development Corporation as an Alaskan corporation, and subjects it to the provisions of this Act for a period of 20 years. The Corporation is to be formed by five incorporators appointed by the Alaska Native Commission. The management of the Corporation shall be vested in the Board of Directors made up of 17 members elected by the stockholders; one member will be elected by the stockholders living in each of the 12 regions determined by the Commission pursuant to section 9 of this bill. The other 5 members will be elected at large by all of the stockholders. The terms of the directors is 4 years with a provision for staggering the terms of the initial board with lots to be drawn to determine who shall serve the short terms.

The Corporation is authorized to have a president and such other officers as may be named and appointed by the board at rates of compensation approved by the board. The other employees of the Corporation shall be appointed by the president. The employees are subject to standards and requirements similar to those applicable to Federal civilian employees but are not employees of the Federal Government.

This section gives the Corporation general corporate authority but provides for some additional authority in order to foster native development. This Corporation will, of course, have authority to establish subsidiary corporations on a regional basis, or any other basis the natives desire. There is a limitation placed on the amount of money the Corporation may use for dividends or unsecured loans in any one year. Certain of the Corporation's income is excluded from Federal and State tax laws.

The section authorizes the issuance of one million shares of common stock, which stock shall for the first 20 years of the life of the Corporation be issued only to natives, ten shares to each native. We have prohibited the alienation of stock in the hands of the natives until June 30, 1992, except for provisions for disposal at death. The stock is exempt from Federal or State estate or inheritance taxes until June 30, 1992. The section makes the Corporation subject to audit by the General Accounting Office until June 30, 1992.

The section provides for a payment to the Corporation of $500 million to be made over a period of 20 years by the Secretary of the Interior beginning with fiscal year 1972, with a provision for an initial payment to the Corporation of $1 million as soon as it is organized. An additional $250,000 is to be paid in the first year to be used to pay fees of attorneys who handled claims of the Alaska natives before the Indian Claims Commission.

Section 8 of the bill provides that 2 percent of all revenues received from the disposition of minerals in the State of Alaska shall be paid to the Corporation. The 2 percent override will apply to revenues received both on Federal lands in the State as well as lands patented to the State of Alaska. This section will be applicable until the Corporation receives a total of $500 million after which time the overriding royalty will cease.

Section 8 also provides that in the event of default by the State of Alaska in making payments due under this section there shall be deducted annually and paid to the Corporation the amount of any underpayment from the share of mineral revenues from public lands otherwise payable to the State. It further provides that in the event the State initiates litigation or becomes a party to litigation to contest section 8, the Secretary shall have authority to suspend State selection under the Alaska Statehood Act for certain lands. Any action brought to contest section 8 must be instigated within one year after the date of this Act or otherwise be barred.

In the final analysis, legislation on this subject represents an agreement among three parties—the Alaska natives, the State of Alaska and the United States Government. We believe it should be clearly understood among the parties concerned that the State of Alaska has an interest and shares a responsibility in reaching an equitable settlement of the Alaska Native Land Claims. The revenue sharing and other provisions of the Administration's draft bill reflect our best judgment regarding the part of the settlement which should be the State's responsibility. Certain of the provisions of the revenue sharing section seek to assure State cooperation and compliance. In any event we believe the contribution of the United States that is reflected in the bill is a fair settlement between the natives and the United States. We do not believe the United States would have a responsibility to increase its contribution now or in the future if the State were to fail to meet the State's obligations as specified in the bill.

Section 9 of the bill provides for the Commission to divide the State of Alaska into 12 geographic regions with each region being composed, as far as practicable, of natives having a common heritage and sharing common interests. The bill sets out that the 12 regions shall, unless good cause is shown to the contrary, be approximately the areas covered by the 12 existing native associations and lists those associations. It provides that any disputes over boundaries of any region shall be determined by the Commission and its determination shall be final.

Section 10(a) provides for the revocation of existing public land orders which have withdrawn all public lands in the State of Alaska. It then provides that except for land for national defense purposes other than naval petroleum reserve numbered 4 and land in the National Park System each township in which a native village, as listed in subsection (a)(2) of section 10, is located and each contiguous and cornering township shall be withdrawn. Within a period of one year, each native village is to select an area equivalent to three townships from the cornering and contiguous townships withdrawn. At the end of the one-year period all cornering or contiguous townships, except those selected by the native villages and except those in the National Wildlife Refuge System or naval petroleum reserve numbered 4, shall be subject to the provisions of subsection (b) and shall be deemed to have been withdrawn under the provisions of said subsection. At the end of said one-year period, the withdrawal of all contiguous and cornering townships in the National Wildlife Refuge System and naval petroleum reserve numbered 4 which have not been selected by the native village shall terminate.

Paragraph 2 of subsection (a) lists the native villages with the exception of the Tlingit-Haida villages which qualify for withdrawal under the provisions of section 10.

Subsection (b) provides for the withdrawal of all public land, with the exception of land withdrawn for national defense, including naval petroleum reserve numbered 4 and land in the National Park System and the National Wildlife Refuge System, in the contiguous and cornering townships surrounding the townships withdrawn under paragraph 1 of subsection (a) and section 10.

Subsection (c) provides for withdrawal of each section in which a native has his primary place of residence on December 31, 1970, if such place of residence is outside the boundaries of townships withdrawn for the village. Excepted from this withdrawal are National Park System lands and lands withdrawn or reserved for national defense purposes, except naval petroleum reserve numbered 4. Any native who is to qualify for land under this subsection must file his application for a determination of occupancy with the Commission within two years after the effective date of the Act.

Subsection (d) provides for the continuation of present management of land withdrawn under the provisions of section 10 and section 14. This management will continue until the land is either patented or returned to its use prior to withdrawal.

Subsection (e) provides that withdrawals made pursuant to subsection (b) shall terminate 5 years after the date of enactment of this Act except for those lands or interest therein designated for disposition by the Corporation pursuant to section 12 (a), (d) or (e). It further provides that withdrawals made pursuant to subsection (c) of this section may be terminated by the Secretary upon issuance of a patent to the native occupying such land or upon the relocation of such native. Withdrawals made pursuant to subsection (a) of minerals located in naval petroleum reserve numbered 4 may also be terminated by the Secretary prior to the termination of such withdrawal.

Section 11 provides that the Secretary will survey the areas selected or designated for patent to incorporated native villages. He shall monument only exterior boundaries at angle points and at intervals of approximately one mile on straight lines. No ground survey or monumentation shall be required along meanderable water boundaries. He shall also survey within such areas land occupied as a primary place of residence, a primary place of business, or for other purposes.

Section 12(a) provides for patenting to incorporated native villages of the surface of 92,160 acres of land from the withdrawn areas selected by the listed villages. The patenting of 92,160 acres is dependent upon that amount of land being available from the public domain surrounding the village. In the event there is not sufficient public land surrounding an incorporated native village to patent to it 92,160 acres, the Secretary is authorized to patent other land, designated by the Corporation, to such village to make up the difference.

This subsection further provides that upon receipt of patents by the incorporated native village, the village shall then issue deeds to native occupants of land within such area, without consideration, of tracts occupied by them as residences, places of business, subsistence campsites or reindeer husbandry. It also provides that the village will deed to non-natives and non-profit organizations land occupied by them either without consideration or upon payment of fair market value as determined on the date of initial occupancy without regard to improvements, provided that all in the same general character are accorded similar treatment.

Subsection (b) provides for patenting of the surface of 23,040 acres of land to the Tlingit-Haida villages listed in section 14 of the bill. The provisions for patenting land to natives, non-natives, and nonprofit organizations under subsection (b) is identical to the provisions set forth above under subsection (a).

Subsection (c) provides for the patenting of the surface of 160 acres of land within the sections withdrawn under the provisions of subsection 10(c) of the bill to those natives occupying such land as a primary place of residence on the effective date of this Act.

Subsection (d)(1) provides that within 5

years from the date of enactment of this Act the Corporation shall designate additional land for the benefit of each native village from within areas withdrawn under subsection (b) of section 10. The land designated under this subsection shall total 40 million acres reduced by the number of acres patented or to be patented to individuals or incorporated native villages pursuant to (a), (b), and (c) of section 12. Certain criteria is set forth in this subsection for the Corporation to use in making such determinations. This section will guarantee that the total land settlement provided for in this bill is 40 million acres.

Paragraph 2 of subsection (d) provides that the Secretary will issue a patent to the surface estate for such land designated for the benefit of each native village simultaneous with or as soon as possible thereafter, the issuance of a patent for land to the incorporated native village under subsection (a) of this section.

Subsection (e) provides that contemporaneous with the issuance of the patents to the surface provided for in subsections (a), (b), (c) and (d) of section 12, the Secretary shall, with the exception of those lands located in the National Wildlife Refuge System and land withdrawn or reserved for defense purposes including naval petroleum reserve numbered 4, issue a patent to the Corporation for all the minerals covered by the mining laws and the mineral leasing laws, such mineral patent to be without payment and subject to valid existing rights. Where those villages are located in naval petroleum reserve numbered 4 and the National Wildlife Refuge System, the Secretary shall patent to the Corporation the mineral interest in lands withdrawn under subsection (b) of section 10 as designated by the Corporation equal to the number of acres the surface estate of which is patented to villages located in the National Wildlife Refuge System or naval petroleum reserve numbered 4.

Subsection (f) provides that where prior to the issuance of a patent to any land under this section, a contract, lease, or permit has been issued for the utilization of mineral or surface resources, such patent shall be subject to such contract, lease, or permit and the patent will contain language so providing.

It further provides that all income derived from such lease, contract, or permit shall be paid to the patentee but the administration of such lease, contract, or permit shall continue to be conducted by the lessor, contractor, or permitter.

Section 13 authorizes the Secretary to dispose of all deposits of minerals included under the mineral leasing laws located in Alaska, excepting those minerals in naval petroleum reserve numbered 4, only by competitive bidding.

Section 14 provides for the settlement of the Tlingit-Haida claims. It authorizes in subsection (a) the withdrawal of the township enclosing the villages listed in section 14.

Subsection (b) provides that the distribution of funds awarded the Tlingit-Haida in the Court of Claims case and made pursuant to Public Law 91335, is in lieu of the additional townships awarded the native villages in section 12.

Subsection (c) extinguishes the claims of the Tlingit-Haida Indians including the 2.6 million acres of land referred to in their Court of Claims case.

Section 15 repeals those provisions of law that allow Indian allotments in Alaska. We believe that these provisions should be repealed since this bill makes what we consider to be adequate land provisions for the natives of Alaska.

Section 16 provides that the existing reserves that have been set aside by any means for native use or administration of their affairs are revoked when such revocation is not inconsistent with the provisions of this Act. This provision does not revoke the Annette Islands Reserve because the revoking of such reservation would be inconsistent with the provisions of this Act since the Tsiamshin Indians are not included in the settlement made by this bill.

Section 17 provides that the Commission and the Secretary shall submit annual reports to the Congress. On June 30, 1992, the Commission and the Secretary are to submit through the President a joint report of the status of the natives, a summary of actions taken, together with recommendations for the continuation or modification of the Act.

Section 18 contains the authorization for appropriations to the Secretary of the Interior and the Commission of the sums that will be necessary to carry out their functions and responsibilities under the Act.

Section 19 is a publication section and authorizes the Secretary of the Interior to publish in the *Federal Register* such regulations as may be necessary to carry out the purposes of the Act.

Section 20 is a savings-clause provision.

Section 21 provides that if any provision of this Act is held invalid the remainder of the Act shall remain valid.

In the preparation of this proposed legislation, the Department has had the benefit of the advise and views of the representatives of the Alaska Federation of Natives, with whom, not only I, but the Vice President and members of the President's personal staff have been in close consultation.

This consultation is a direct result of the President's and Vice President's interest in seeing to it that Indian and native peoples are informed about and involved in the Administration's treatment of matters which, like this legislation, so directly affect their lives.

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

Sincerely yours,

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

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

S. 1572. A bill to expand and extend the desalting program being conducted by the Secretary of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 1572

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of July 3, 1952 (66 Stat. 328), as amended (42 U.S.C. 1951–1958g), is further amended to read as follows:

SECTION 1. In view of the increasing shortage of usable water in many parts of the Nation and the importance of finding new sources of supply to meet present and future water needs, it is the policy of the Congress to provide for development and demonstration of practicable means for large-scale production from saline water of low-cost water suitable for municipal, industrial, agricultural or any other beneficial purpose, and for studies and research related thereto.

SEC. 2. When used in this Act—

(a) "Saline water" shall mean seawater, brackish water, and other mineralized or chemically changed water.

(b) "Desalting" shall mean any process for the reclamation or treatment of saline water for any beneficial purpose.

(c) "Pilot plant" shall mean an experimental unit of up to one hundred thousand gallons per day capacity, used for early evaluation and development of new or improved desalting processes and also for investigations in areas of supporting research and development to obtain needed technical and engineering data.

(d) "Test bed" shall mean an experimental desalting plant of up to two million gallons per day capacity, used for further evaluation and refinement of selected processes beyond that permitted by a pilot plant.

(e) "Module" shall mean a section or integral portion of a desalting plant which is used initially to confirm new or improved desalting technology on a large scale and the critical design features required for subsequent prototype construction.

(f) "Prototype plant" shall mean a first first of a kind water-producing plant of sufficient scale and detail used for complete process verification of pilot plant test bed or modular tested technology and process economics.

SEC. 3. The Secretary of the Interior shall—

(a) conduct or provide for fundamental and applied research and studies to develop the best and most economical desalting processes, including processes for the recovery of commercially valuable byproducts produced during desalting and for the minimization of environmentally harmful effects associated therewith;

(b) conduct or provide for engineering and technical development work, including the construction and testing of pilot plants, test beds, modules, or any components thereof, for the purposes of evaluating the research and studies authorized by section 3(a) of this Act and advancing desalting processes and plant designs to the point where they can be demonstrated on a practicable scale;

(c) report to the President and to the Congress his recommendation as to the best opportunity for the early construction of large-scale prototype desalting plants. Plant siting shall consider the need for new water resources in a comprehensive plan for the area selected, plant size and best-suited technology to demonstrate the practicability of construction and operation of large-scale plants for water supply, and the availability of cooperating entity or entities willing to enter into agreements for marketing the water produced;

(d) conduct or provide for studies, surveys, and analyses (i) to determine the potential needs for, and uses of, desalting processes, (ii) to determine the present and prospective costs of reclaiming or treating saline water in various parts of the United States, and (iii) to furnish the technical and economic information to water resource planners as to the feasibility of constructing and operating proposed desalting plants;

(e) coordinate the studies, surveys, analyses, and reports authorized by this section 3 with those authorized by the Water Resources Planning Act of July 22, 1965, P.L. 89–80, 79 Stat. 244; the Colorado River Basin Project Act of September 30, 1968, 82 Stat. 885; the Federal reclamation laws (Act of June 17, 1902), 32 Stat. 388, and acts amendatory or supplementary thereto; the Federal Water Pollution Control Act of June 30, 1948, 62 Stat. 1155, as amended and supplemented; and the National Environmental Policy Act of 1969, 83 Stat. 852.

SEC. 4. In carrying out his functions under this Act, the Secretary of the Interior may—

(a) make grants to educational institutions and scientific organizations and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) undertake or provide for the construction, operation, and maintenance of the facilities necessary to carry out the research, studies, testing, development, and other functions authorized by this Act;

(e) acquire by purchase, contract for construction, license, lease, or donation, secret processes, technical data, inventions, patent applications, patents, licenses, land or any interest in land, water rights, plants and facilities, and other property and rights necessary to conduct the activities authorized by this Act, as well as dispose of any such property or rights when no longer necessary for such activities: *Provided*, That such property or rights shall be acquired or disposed of as provided in the Federal Property and Administrative Services Act of 1949, as amended.

(f) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue reports and bibliographical data with respect thereto;

(g) cause on-site inspections to be made of promising projects, domestic and foreign, and in the case of projects located in the United States, cooperate and participate in their development and operation in instances in which the purposes of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to desalting;

(i) coordinate, correlate, publish, and otherwise make available information with a view to advancing the development of low-cost desalting processes;

(j) take necessary measures to preserve from loss such disclosures or discoveries as are not directly related to desalting made in the course of the research and studies authorized by section 3(a) of this Act;

(k) dispose of water or byproducts resulting from activities authorized by this Act in such manner as the Secretary shall determine best promotes the purposes thereof, with all moneys received by dispositions under this section or section 4(e) to be paid into the Treasury as miscallaneous receipts;

(l) cooperate and participate in any of the foregoing activities together with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities or with interested persons, firms, institutions, and organizations.

SEC. 5. In providing for the construction and operation of such prototype desalting plants as may hereafter be authorized, the Secretary of the Interior may participate with a Federal or State agency (including a political subdivision thereof). Whenever the other participant is a non-Federal agency, the Federal financial contribution shall be limited to 50 percent of the construction cost and 50 percent of the operating and maintenance cost during the initial operating period, not to exceed three years following plant acceptance.

SEC. 6. By the end of fiscal year 1976, the Secretary of the Interior shall submit a report to the President and the Congress describing the status of the program authorized by this Act and shall include recommendations on the future role that the Federal Government should play in the desalting program.

SEC. 7. The Secretaries of the Interior, Defense; State; Agriculture; Commerce; Health, Education and Welfare; and Housing and Urban Development; the Atomic Energy Commission and the Administrator of the Environmental Protection Agency shall each cooperate and coordinate their respective programs to effectuate the purposes of this Act.

SEC. 8. Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

SEC. 9. The Secretary of the Interior shall make reports no less frequently than every two years to the President and the Congress describing the action taken or instituted by him under the provisions of this Act.

SEC. 10. The Secretary of the Interior shall issue rules and regulations to effectuate the purposes of this Act.

SEC. 11. There are authorized to be appropriated such sums, to remain available until expended, as may be necessary (a) to carry out the provisions of this Act during fiscal years 1973 to 1977, inclusive, (b) to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative undertakings, and studies as may heretofore have been undertaken pursuant to this Act, and (c) to finance, for not more than one additional year, such activities as are required to correlate, coordinate, and summarize in a final report to the President and the Congress the results of the research and development undertaken pursuant to this Act: *Provided*, That not more than two percent of the funds to be made available in any one year for research and development may be expended, subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the program in the United States: *And Provided further*, That contracts or agreements made in pursuance of the foregoing proviso shall require that the results or information developed in connection therewith be available without cost, both to the Secretary of the Interior and the general public in the United States.

SEC. 12. When appropriations have been made for any activity authorized by this Act, the Secretary of the Interior may enter into contracts for such periods of time as he shall determine to be necessary but under which the liability of the United States shall be contingent upon appropriations being available therefor.

SEC. 13. The Secretary of the Interior is authorized to accept financial and other assistance from any State or public agency to conduct the program authorized by this Act and to enter into contracts with respect to such assistance which specify the purpose or purposes for which the assistance is to be used. Any funds so contributed shall be available for expenditure by the Secretary of the Interior for the purposes for which they were contributed in like manner as if they had been specifically appropriated as authorized by section 11 of this Act, and any funds not expended for these purposes shall be returned to the State or public agency from which they were received: *Provided*, That receipt of such funds shall not be the basis for entering into contracts that obligate the United States contingently or otherwise, for amounts in excess of such funds, unless actual appropriations have also been made for such contracts.

SEC. 14. This Act may be cited as the "Saline Water Conversion Act of 1971".

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## WATER DESALTING

(Statement of Senator JACKSON)

Mr. President, on behalf of the senior Senator from Colorado (Mr. ALLOTT) and myself, by request, I send to the desk for appropriate reference a bill to expand and extend the desalting program being conducted by the Secretary of the Interior, and for other purposes.

This measure has been submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication transmitting the proposed legislation be printed in the RECORD following my remarks.

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U.S. DEPARTMENT
OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., April 1, 1971.*

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

DEAR MR. PRESIDENT: There is enclosed a draft bill "To expand and extend the desalting program being conducted by the Secretary of the Interior."

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

With the enactment in 1952 of the Saline Water Act (66 Stat. 328), the Congress recognized the potential crisis that confronted the Nation in the disproportion between the available supply and the increasing demand for water. In that legislation, the Congress declared the policy of "providing for the development of practicable low-cost means of producing from sea water, or from other saline waters, water of a quality suitable for agricultural, industrial, municipal, and other beneficial consumptive uses on a scale sufficient to determine the feasibility of the development of such production and distribution on a large-scale basis, for the purpose of conserving and increasing the water resources of the Nation."

The 1952 Act, as amended, authorized annual appropriations for the purpose of initiating new projects only through fiscal year 1972, with an additional period of 5 years during which only appropriations to complete such projects could be made. The Federal desalting program will, accordingly, begin to phase out after fiscal year 1972 unless new authority is provided.

In continuing the desalting program, our main objectives will be: (1) to carry forward our basic and applied research and development program, building on the impressive gains in developing desalting systems which have already been made; (2) where desalting technology has been sufficiently developed, to stimulate its application to existing water problems; and (3) to develop large-scale prototype plants to evaluate and demonstrate the viability of desalting as an alternate water source to meet the pressing requirements that will arise in the last quarter of this century for more and better water. The location of such prototype plans will be selected on the basis of water needs and the availability of an entity or entities to participate in the construction and initial operating costs.

This bill would provide new authority for continuing with research and development activities for an additional 5 years, from fiscal years 1973 through 1977, with an additional 3-year period for completing those activities and an additional 1 year for preparing the final report. Periodic reports to the Congress no less frequent than 2 years would be required. Although the format has been changed, in substance this bill contains the same general authority as present law with the following exceptions.

1. The bill would require the Secretary of the Interior to complete and submit a preliminary report on the feasibility of constructing and operating large prototype desalting plants in order to verify that large-scale desalting is practicable by the distillation or reverse osmosis processes.

2. By the end of fiscal year 1976, the Secretary would be required to submit a report to the President and the Congress describing the status of the program authorized by the Act, including recommendations on the future role the Federal Government should play in encouraging the development and application of desalting technology. It is anticipated that information developed during this period would provide the basis for recommendations on the role of desalting in the Western United States Water Plan (Colorado River Basin Project Act of September 30, 1968, 82 Stat. 885).

3. More comprehensive definitions of the terms "pilot plant", "test bed", "module", and "prototype" are provided.

4. The scope of the research and development work on processes for the recovery of commercially valuable byproducts and for the minimization of environmentally harmful effects associated with desalting processes would be expanded.

5. New emphasis would be given to studies, surveys, and analyses that will include the use of desalting technology in comprehensive

water resource planning and in other practical applications. Coordination of such studies with studies being conducted under other legislation would be required.

6. The Secretary would be authorized to acquire or dispose of property or rights in compliance with applicable property procurement and disposal laws. No disposal authority is provided in the present legislation except with respect to water and other byproducts of the desalting process. This has impaired the Secretary's flexibility in participating in arrangements with other entities and has created other complications inimical to the purposes of the Act.

7. The Secretary of the Interior would be authorized to continue research to preserve from loss disclosures or discoveries that were not directly related to desalting in the course of authorized research and studies.

8. Cooperation and participation in foreign research, not to exceed 2 percent of the appropriated research and development funds in any fiscal year, would be authorized.

Also enclosed herewith is a sectional analysis of the proposed bill and an environmental impact statement as required by section 102(2)(C) of the National Environmental Policy Act of 1969.

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

Sincerely yours,

JAMES R. SMITH,
*Secretary of the Interior.*

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A bill to expand and extend the desalting program being conducted by the Secretary of the Interior, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of July 3, 1952 (66 Stat. 328), as amended (42 U.S.C. 1951–1958g), is further amended to read as follows:

SECTION 1. In view of the increasing shortage of usable water in many parts of the Nation and the importance of finding new sources of supply to meet present and future water needs, it is the policy of the Congress to provide for development and demonstration of practicable means for large-scale production from saline water of low-cost water suitable for municipal, industrial, agricultural or any other beneficial purpose, and for studies and research related thereto.

SEC. 2. When used in this Act—

(a) "Saline water" shall mean seawater, brackish water, and other mineralized or chemically charged water.

(b) "Desalting" shall mean any process for the reclamation or treatment of saline water for any beneficial purpose.

(c) "Pilot plant" shall mean an experimental unit of up to 100,000 gallons per day capacity, used for early evaluation and development of new or improved desalting processes and also for investigations in areas of supporting research and development to obtain needed technical and engineering data.

(d) "Test bed" shall mean an experimental desalting plant of up to two million gallons per day capacity, used for further evaluation and refinement of selected processes beyond that permitted by a pilot plant.

(e) "Module" shall mean a section or integral portion of a desalting plant which is used initially to confirm new or improved desalting technology on a large scale and the critical design features required for subsequent prototype construction.

(f) "Prototype plant" shall mean a first of a kind water-producing plant of sufficient scale and detail used for complete process verification of pilot plant test bed or modular tested technology and process economics.

SEC. 3. The Secretary of the Interior shall—

(a) conduct or provide for fundamental and applied research and studies to develop the best and most economical desalting processes, including processes for the recovery of commercially valuable byproducts produced during desalting and for the minimization of environmentally harmful effects associated therewith;

(b) conduct or provide for engineering and technical development work, including the construction and testing of pilot plants, test beds, modules, or any components thereof, for the purposes of evaluating the research and studies authorized by section 3(a) of this Act and advancing desalting processes and plant designs to the point where they can be demonstrated on a practicable scale;

(c) report to the President and to the Congress his recommendation as to the best opportunity for the early construction of large-scale prototype desalting plants. Plant siting shall consider the need for new water resources in a comprehensive plan for the area selected, plant size and best-suited technology to demonstrate the practicability of construction and operation of large-scale plants for water supply, and the availability of cooperating entity or entities willing to enter into agreements for marketing the water produced;

(d) conduct or provide for studies, surveys, and analyses (i) to determine the potential needs for, and uses of, desalting processes, (ii) to determine the present and prospective costs of reclaiming or treating saline water in various parts of the United States, and (iii) to furnish the technical and economic information to water resource planners as to the feasibility of constructing and operating proposed desalting plants;

(e) coordinate the studies, surveys, analyses, and reports authorized by this section 3 with those authorized by the Water Resources Planning Act of July 22, 1965, Public Law 89–80, 79 Stat. 244; the Colorado River Basin Project Act of September 30, 1968, 82 Stat. 885; the Federal reclamation laws (Act of June 17, 1902), 32 Stat. 388, and acts amendatory or supplementary thereto; the Federal Water Pollution Control Act of June 30, 1948, 62 Stat. 1155, as amended and supplemented; and the National Environmental Policy Act of 1969, 83 Stat. 852.

SEC. 4. In carrying out his functions under this Act, the Secretary of the Interior may—

(a) make grants to educational institutions and scientific organizations and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) undertake or provide for the construction, operation, and maintenance of the facilities necessary to carry out the research, studies, testing, development, and other functions authorized by this Act;

(e) acquire by purchase, contract for construction, license, lease, or donation, secret processes, technical data, inventions, patent applications, patents, licenses, land or any interest in land, water rights, plants and facilities, and other property and rights necessary to conduct the activities authorized by this Act, as well as dispose of any such property or rights when no longer necessary for such activities: *Provided*, That such property or rights shall be acquired or disposed of as provided in the Federal Property and Administrative Services Act of 1949, as amended.

(f) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue reports and bibliographical data with respect thereto;

(g) cause on-site inspections to be made of promising projects, domestic and foreign, and in the case of projects located in the United States, cooperate and participate in their development and operation in instances in which the purposes of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to desalting;

(i) coordinate, correlate, publish, and otherwise make available information with a view to advancing the development of low-cost desalting processes;

(j) take necessary measures to preserve from loss such disclosures or discoveries as are not directly related to desalting made in the course of the research and studies authorized by section 3(a) of this Act;

(k) dispose of water or byproducts resulting from activities authorized by this Act in such manner as the Secretary shall determine best promotes the purposes thereof, with all moneys received by dispositions under this section or section 4(e) to be paid into the Treasury as miscellaneous receipts;

(l) cooperate and participate in any of the foregoing activities together with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, or with interested persons, firms, institutions, and organizations.

SEC. 5. In providing for the construction and operation of such prototype desalting plants as may hereafter be authorized, the Secretary of the Interior may participate with a Federal or State agency (including a political subdivision thereof). Whenever the other participant is a non-Federal agency, the Federal financial contribution shall be limited to 50 per centum of the construction cost and 50 per centum of the operating and maintenance cost during the initial operating period, not to exceed three years following plant acceptance.

SEC. 6. By the end of fiscal year 1976, the Secretary of the Interior shall submit a report to the President and the Congress describing the status of the program authorized by this Act and shall include recommendations on the future role that the Federal Government should play in the desalting program.

SEC. 7. The Secretaries of the Interior, Defense; State; Agriculture; Commerce; Health, Education, and Welfare; and Housing and Urban Development; the Atomic Energy Commission and the Administrator of the Environmental Protection Agency shall each cooperate and coordinate their respective programs to effectuate the purposes of this Act.

SEC. 8. Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

SEC. 9. The Secretary of the Interior shall make reports no less frequently than every two years to the President and the Congress describing the action taken or instituted by him under the provisions of this Act.

SEC. 10. The Secretary of the Interior shall issue rules and regulations to effectuate the purposes of this Act.

SEC. 11. There are authorized to be appropriated such sums, to remain available until expended, as may be necessary (a) to carry out the provisions of this Act during fiscal years 1973 to 1977, inclusive, (b) to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative undertakings, and studies as may theretofore have been undertaken pursuant to this Act, and (c) to finance, for not more than one additional year, such activities as are required to correlate, coordinate, and summarize in a final report to the President and the Congress the results of the research and development undertaken pursuant to this Act: *Provided*, That not more than two per centum of the funds to be made available in any one year for research and development may be expended, subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the program in the United States: *And Pro-*

*vided further,* That contracts or agreements made in pursuance of the foregoing proviso shall require that the results or information developed in connection therewith be available without cost, both to the Secretary of the Interior and the general public in the United States.

SEC. 12. When appropriations have been made for any activity authorized by this Act, the Secretary of the Interior may enter into contracts for such periods of time as he shall determine to be necessary but under which the liability of the United States shall be contingent upon appropriations being available therefor.

SEC. 13. The Secretary of the Interior is authorized to accept financial and other assistance from any State or public agency to conduct the program authorized by this Act and to enter into contracts with respect to such assistance which specify the purpose or purposes for which the assistance is to be used. Any fund so contributed shall be available for expenditure by the Secretary of the Interior for the purposes for which they were contributed in like manner as if they had been specifically appropriated as authorized by section 11 of this Act, and any funds not expanded for these purposes shall be returned to the State or public agency from which they were received: *Provided,* That receipt of such funds shall not be the basis for entering into contracts that obligate the United States contingently or otherwise, for amounts in excess of such funds, unless actual appropriations have also been made for such contracts.

SEC. 14. This Act may be cited as the "Saline Water Conversion Act of 1971."

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PROPOSED SALINE WATER CONVERSION ACT OF 1971

SECTIONAL ANALYSIS

*Section 1*—declares Congressional policy to provide for development and demonstration of practicable means for large-scale production from saline water of low-cost water suitable for beneficial purposes and to provide for studies and research related thereto.

*Section 2*—defines the following terms:

*2(a)* "Saline water"—seawater, brackish water, and other mineralized or chemically charged water.

*2(b)* "Desalting"—any process of reclamation or treatment of saline water for any beneficial purpose.

*2(c)* "Pilot plant"—an experimental unit of up to 100,000 gallons per day capacity used for early developmental and investigatory work.

*2(d)* "Test bed"—An experimental desalting plant of up to 2 million gallons per day used for further evaluation and refinement of desalting technology.

*2(e)* "Module"—section or integral portion of desalting plant used initially to confirm technology on a large scale and critical design functions for prototype construction.

*2(f)* "Prototype plant"—first of a kind water-producing plant of sufficient scale and detail for complete process verification of technology and economics.

*Section 3*—directs the Secretary of the Interior (Secretary) to (a) undertake research and studies to develop the best and most economical desalting processes, including processes for recovery of commercially valuable byproducts and for minimizing adverse environmental effects; (b) undertake engineering and technical development work, including construction and testing of pilot plants, test beds, modules or components thereof; (c) make a report and recommendation to the President and to Congress concerning the best opportunity for early construction of large-scale prototype desalting plants; (d) undertake studies, surveys and analyses of needs for and uses of desalting processes, desalting costs in various parts of the United States and the feasibility of desalting plants; (e) coordinate these studies, surveys and analyses with activities under other Federal laws affecting water quality or quantity.

*Section 4*—authorizes the Secretary to (a) make certain grants or enter contracts with educational institutions or scientific organizations and with industrial or engineering firms; (b) acquire the services of professional and other personnel; (c) use Federal scientific facilities; (d) accomplish the construction, operation and maintenance of facilities necessary to carry out authorized functions; (e) acquire and dispose of property or other rights in compliance with applicable law; (f) collect and disseminate pertinent scientific information; (g) inspect projects and, in the case of projects located in the United States, join in their development and operation where the Act's purposes will be served; (h) foster and participate in desalinization conferences; (i) coordinate, correlate, publish and otherwise make available information with a view to advancing the development of low-cost desalting processes; (j) preserve disclosures and discoveries not directly related to desalting made in the course of authorized research and studies; (k) dispose of water and byproducts resulting from activities authorized by the Act; (l) cooperate and participate in these activities with others.

*Section 5*—provides that in undertaking construction and operation of any prototype plants which may be subsequently authorized, the Secretary may participate with a Federal or State agency. Where the other participant is a non-Federal agency, the Federal share of the costs involved shall not exceed 50 percent of construction and of initial operating and maintenance costs (continued no more than 3 years).

*Section 6*—requires the Secretary to submit a report on the status of the desalting program with recommendations concerning the future Federal role in it, not later than the end of fiscal year 1976.

*Section 7*—requires the cooperation and coordination of Federal departments and agencies to effectuate the Act's purposes.

*Section 8*—provides that the Act shall not alter existing law with respect to ownership and control of water.

*Section 9*—directs the Secretary to report to the President and Congress on the desalting program not less frequently than every two years.

*Section 10*—provides for issuance by the Secretary of rules and regulations to carry out the Act's purposes.

*Section 11*—authorizes appropriations as may be necessary (a) to carry out the Act's provisions during fiscal years 1973 to 1977; (b) to finance activities undertaken within such period for an additional 3 years; and (c) to finance for not more than one additional year activities necessary to prepare a final report to the President and Congress. The section permits expenditure for foreign research activities of up to 2 percent of research and development appropriations provided the results of, or information developed in connection with, such research shall be available without cost to the Secretary and to the general public in the United States.

*Section 12*—provides that when appropriations have been made for any activity authorized by the Act, the Secretary may enter contracts for such duration as he may determine to be necessary, except that the liability of the United States shall be contingent throughout upon the availability of appropriations.

*Section 13*—permits the Secretary to accept certain financial and other assistance, with contributed funds being available for the designated purposes as if appropriated under section 11. Unused funds will be returned to the donors. The receipt of such funds shall not be the basis for entering contracts obligating the United States unless actual appropriations have also been made.

*Section 14*—provides that the Act's short title shall be the "Saline Water Conversion Act of 1971".

PROPOSED BILL TO EXPAND AND EXTEND THE DESALTING PROGRAM BEING CONDUCTED BY THE SECRETARY OF THE INTERIOR

ENVIRONMENTAL IMPACT STATEMENT

1. *Nature of Proposed Bill*

The proposed bill would amend the Act of July 3, 1952 (66 Stat. 328), as amended (42 U.S.C. 1951–1958g) to expand and extend the desalting program being conducted by the Secretary of the Interior. The details are specified in the bill which this statement accompanies, and further in the covering letters to the President of the Senate and to the Speaker of the House of Representatives. The proposed legislation does not provide for a substantive redirection of the existing program.

2. *Environmental Impact of Proposed Bill*

Because of increasing shortage of usable water, and in view of the importance of finding new sources of supply to meet present and future needs, section 1 of the bill makes it the policy of the Congress "to provide for development of practicable means for large-scale production from saline water of low-cost water of a quality suitable for municipal, industrial, agricultural, or any other consumptive use or any other beneficial purpose, and for studies and research related thereto."

The saline water conversion program is the only Federal research and development program for providing practical means of converting saline waters into water suitable for beneficial uses. The proposed bill would continue this program, but in no way change the direction presently followed under existing law.

Our water supplies must be augmented to provide for the needs of a growing population and expanding economy. The means for increasing such supplies are limited. Precipitation management, use of available geothermal and ground water supplies, additional river and stream flow-management and desalination are the principal sources at this time.

The bill under consideration would have a limited immediate effect on the environment. The extension of the existing program will continue present operations of Office of Saline Water Test Facilities at the following five locations: San Diego, California; Roswell, New Mexico; Freeport, Texas; Wrightsville Beach, North Carolina; and Webster, South Dakota. These experimental facilities operate intermittently, have a negligible effect on the environment, and the effluents (hot brine and gas emissions) fully comply with all present State standards and the requirements of Executive Order 11507, Prevention, Control and Abatement of Air and Water Pollution at Federal Facilities.

The bill does not provide for the construction of new facilities, test beds and modules, and would require that the Secretary of the Interior recommend to the President and the Congress, not less than a year after passage, his recommendation as to the best opportunity for early construction of large-scale prototype desalting plants. Any of these activities may have significant environmental effects requiring statements in accordance with Section 102(2)(C) of the Environmental Quality Act of 1969. Such statements will be prepared when new projects are identified as to proposed location and data become available.

Environmental effects of existing Office of Saline Water Facilities are described as follows:

(a) *San Diego, California, Test Bed and Facility:* Steam is purchased from the existing operating power plant of the San Diego Gas & Electric Company, adding nothing to emissions produced in that company's normal operations. Brine is discharged through San Diego Gas & Electric discharge facilities to the San Diego Bay and to Western Salt Company evaporation ponds. There is no adverse effect on water quality or discernible increase in thermal pollution over

that created by San Diego Gas & Electric cooling water discharge.

(b) *Roswell, New Mexico, Test Bed and Facility:* Brine is discharged into plastic lined ponds built by the City of Roswell on city owned property donated by the State of New Mexico. There is no adverse environmental effect. Natural gas is used as fuel; no adverse emissions result.

(c) *Freeport, Texas, Test Bed and Facility:* Steam is purchased from the existing production facilities of the Dow Chemical Company. Brine is discharged through that company's facilities. There is no discernible increase in the thermal pollution over that from normal Dow Chemical operations.

(d) *Webster, South Dakota, Test Bed and Facility:* Negligible gas emission. Brine effluent is discharged at ambient temperature into a local brackish lake. The facility effluent is of higher quality than the lake itself. The environmental effect is insignificant.

(e) *Wrightsville Beach, North Carolina, Test Facility:* A minimal amount of emissions, fully in compliance with North Carolina and Federal standards, is produced from this facility. Brine effluent is cooled in a pond before discharge into the Intercoastal Waterway with no adverse environmental effect.

4. *Alternative to the Proposed Bill*

None, other than termination of or continuation for a different period of the Saline Water Conversion program.

5. *Relation Between Local Short-Term Uses and Long-Term Productivity of the Environment*

In the short run, the program has little or no impact on the environment. The long-run potential is significant. Positively, the production of commercial quantities of water from saline waters, at competitive cost, could provide high quality water for blending with natural stream flows for water quality improvement, and, by virtue of increased supply, reduce the need for added streams flow regulation. It could also reduce the depletion of ground water supply in critically water short areas. Negatively, there is no question that large-scale desalting plants, as contemplated, may have slight local environmental impact. These, largely, will result from heat, brine and air emissions. The research program is designed to provide answers to these environmental questions, as well as to reach the technological objectives. Future state legislation could impose constraints on proposed test facility programs which can be overcome by investment in items as cooling towers and long outfall systems. In this manner environmental impact would be minimized.

6. *Irreversible and Irretrievable Commitments* of Resources

None.

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

S. 1573. A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government and for other purposes.

S. 1574. A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes. Referred to the Committee on Interior and Insular Affairs.



S. 1573

A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. For the purposes of this Act:

(a) "Indian Tribe" and "Indian Community" means an Indian tribe, band, nation or Alaska Native Community for which the Federal Government provides special programs and services because of their Indian identity. The terms may also include the reservation or other land area in which the tribe or community is located and tribally recognized communities within a reservation.

(b) "Indian tribal organization" includes the elected governing body of an Indian tribe or community. The term may also include legally established organizations which are controlled by one or more such bodies or which are controlled by a board of directors elected or selected by one or more such bodies.

(c) "Secretary" means the Secretary of the Interior or the Secretary of Health, Education, and Welfare, as appropriate.

(d) "Programs" and "services" include the local activities and undertakings of the Bureau of Indian Affairs of the Department of the Interior and the Indian health service program of the Public Health Service of the Department of Health, Education, and Welfare serving Indian communities and the related facilities, equipment, supplies, materials and budget. Such other programs as may be designated by a Federal department or agency responsible for the administration thereof may also be transferred pursuant to this Act.

SEC. 2. (a) Notwithstanding any other provision of law, if an Indian tribe or community, after consultation with the Secretary, requests that it be given the control or operation of a program or service administered by the Secretary, the Secretary shall within 120 days from such request, or such later date as may be agreed to by the Secretary and the organization, transfer such control or operation to the Indian tribal organization. Any request made pursuant to this subsection must be accompanied by a plan for carrying out the program or service requested. A tribe or community assuming such control may enter into agreements to carry out all or any part of such program or service. A transfer under this subsection shall stipulate the retrocession procedures provided for in subsections (d) and (e) of this section which are designed to safeguard the residual trust responsibilities of the Federal Government. In the case where a requested program or service is serving the members of more than one Indian tribe or community, the requested transfer of such service or program must be approved by each tribe or community served by said program or service before any transfer shall be required under this Act.

(b) During the period preceding or immediately subsequent to any transfer required by this Act, the Secretary shall provide assistance, other than financial, on the request of the Indian tribal organization, to insure an orderly transfer of the control and operation of the program or service involved.

(c) For each fiscal year during which an Indian tribal organization engages in an activity pursuant to any program or service transferred to it under this Act the Indian tribal organization shall submit a report to the Secretary including an accounting of the amounts and purposes for which Federal funds were expended and information on conduct of the program or service involved. The reports and records of such Indian tribal organization with respect to such program or operation shall be subject to audit by the Secretary and the Comptroller General of the United States.

(d) Should an Indian tribe or community request retrocession to the Secretary of any program or service which was assumed by the Indian tribal organization under this Act, such retrocession shall be effective upon a date specified by the Secretary within 120 days of such indication or such later date as may be agreed to by the Secretary and the organization. Such retrocession will not prejudice the tribe's or community's right to again assume control of a service or program at a later date.

(e) In any case where the Secretary determines that any program or service assumed by an Indian tribal organization is being accomplished in a manner which involves (1) the violation of the rights or endangers the health, safety, or welfare of individuals served by such program or service, or (2) gross negligence or mismanagement in the handling or use of Federal funds provided to the organization pursuant to this Act, the Secretary may, under regulations prescribed by him, after providing notice and hearing to such Indian tribal organization, reassume control or operation of such program or service if he determines that the organization has not taken corrective action as prescribed by the Secretary. The Secretary may retain control of such program or service until such time as he is satisfied that the violations of rights, endangerment of health, safety, or welfare, or the gross negligence or mismanagement which necessitated the reassumption has been corrected as indicated by the plan accompanying a request by an Indian tribal organization to again take control or operation of such program or service.

(f) In the allocation of available funds, Indian tribal organizations that assume control or operation of programs or services under the provisions of this Act, or retrocede control or operation to the Secretary, shall be treated in the same manner as they would be if the control or operation had been maintained continuously by the Federal Government.

SEC. 3. The Secretary is authorized, upon the request of any Indian tribe, band, group, or community, to detail any civil service employee serving under a career or career-conditional appointment for a period of up to one hundred and eighty days to such Indian tribe, band, group, or community for the purpose of assisting such Indian tribe, band, group, or community in its control or operation of a program or service transferred to it pursuant to this Act. The Secretary may, upon a showing by an Indian tribe, band, group, or community of a need for an employee detailed pursuant to this section, extend such detail for a period not to exceed one hundred and eighty days.

SEC. 4. Nothing in this Act shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians.

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S. 1574

A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Federal Employees Indian Tribal Organization Transfer Act."

SEC. 2. (a) Notwithstanding other statutes, Executive orders, or regulations, an employee serving under an appointment not limited to one year or less who transfers on or before December 31, 1981, to an Indian tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if he and the Indian tribal organization so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 ("Compensation for Work Injuries") of title 5, United States Code, and for this purpose his employment with the Indian tribal organization is deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the Indian tribal organization any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the Indian tribal organization, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefits payable under subchapter I of chapter 81 of title 5, United States Code, as follows:

(A) payments on account of injury or disability shall be credited against disability compensation payable to the injured employee; and

(B) payments on account of death shall be credited against death compensation payable to dependents of the deceased employees.

(2) To retain coverage, rights, and benefits under chapter 83 ("Retirement" of title 5, United States Code, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Civil Service Retirement and Disability Fund (section 8348 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 of title 5, United States Code. Days of unused sick leave to the credit of an employee under a formal leave system at the time he transfers to an Indian tribal organization remain to his credit for retirement purposes during covered service with the Indian tribal organization.

(3) To retain coverage, rights, and benefits under chapter 87 ("Life Insurance" of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Life Insurance Fund (section 8714 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5, United States Code.

(4) To retain coverage, rights, and benefits under chapter 89 ("Health Insurance") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Health Benefits Fund (section 8909 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5, United States Code.

(5) To be reemployed within thirty days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if he transferred at the time such an activity was transferred to the Indian tribal organization or within ninety calendar days after such a transfer of activities and (A) he makes application for reemployment not later than five years after the date of his transfer to the Indian tribal organization, or (B) the activity is transferred back to the Government of the United States. On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the agency from which he transferred. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. If, at the time of transfer to the Indian tribal organization the employee received a lump-sum payment for annual leave and he is reemployed under this paragraph within one year from the date of transfer, he shall refund to the agency from which he transferred the amount of the lump-sum payment, and the leave covered by the said lump-sum payment shall be restored to his account. If an employee is reemployed under this paragraph, the period of his service with an Indian tribal organization and the period necessary to effect his reemployment are deemed creditable service for all appropriate civil service employment purposes.

(b) During a transferred employee's period of service with an Indian tribal organization, that organization shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), and (4) of subsection (a) of this section.

SEC. 3. An employee who transfers to an Indian tribal organization under section 2 of this Act and the Indian tribal organization to which he transfers shall make the election to retain the coverages, rights, and benefits in paragraphs (1), (2), (3), and (4) of subsection (a) of section 2 of this Act before the date of his transfer to the Indian tribal organization. An employee who transfers to an Indian tribal organization under section 2 of this Act shall continue to be entitled to the benefits under section 2 of this Act if he transfers to the employment of another Indian tribal organization to perform service in activities of the type described in section 2 of this Act.

SEC. 4. For the purposes of this Act—

(a) "employee" means an employee as defined in section 2105 of title 5, United States Code;

(b) "Indian tribal" includes, but is not limited to, Alaska Native; and

(c) "Indian tribal organization" includes, but is not limited to, Indian tribal governing bodies, their agencies and instrumentalities, and corporations and other organizations which are controlled by (1) one or more of the described Indian tribal governing bodies or their agencies or instrumentalities, or (2) by a board of directors elected or selected by one or more of the described Indian tribal governing bodies or their agencies or instrumentalities.

SEC. 5. The President may prescribe regulations necessary to carry out this Act and to protect and assure the compensation, retirement, insurance, leave, and reemployment rights and such other similar civil service employment rights as he finds appropriate.

SEC. 6. This Act shall be effective 60 days after the date of its enactment.

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## INDIAN LEGISLATION

(Statement by Senator JACKSON)

Mr. President, President Nixon proposed some innovative changes in the manner in which certain Federal agencies should relate to our Nation's Indian citizens in his July 8, 1970, message to Congress on American Indians.

As a means of ending decades of bureaucratic and paternalistic intrusion into the daily lives of Indian people, the President in his message proposed that Indian tribal groups be authorized to assume control, management and direction of those programs being administered solely for the benefit of Indians by the Bureau of Indian Affairs in the Department of the Interior, and the Indian Health Service in the Department of Health, Education and Welfare. In addition, he proposed that Civil Service employees who negotiate transfers to tribal groups assuming control of Federal programs be permitted to retain privileges and benefits authorized under various Civil Service laws.

Legislative proposals were submitted to the Congress during the latter part of the 91st Congress to authorize the change in policy. These two bills, along with several others in the President's Indian program, were introduced by myself and other members of the Senate.

On behalf of the distinguished ranking minority member of the Interior and Insular Affairs Committee (Mr. Allott) and myself, I am today introducing these two measures, which have again been submitted and recommended by the Department of the Interior. Because of the far-reaching implications of the proposed legislation, I hope to set a hearing schedule in this Congress on these bills that will permit a wide range of Indian leaders and public officials to present testimony. Mr. President, I ask unanimous consent that the executive communications accompanying these two draft proposals be printed in the Record at this point.

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., April 1, 1971.*

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

DEAR MR. PRESIDENT: Enclosed is a proposal "To provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government and for other purposes".

We recommend that the proposal be referred to the appropriate committee for its consideration and that it be enacted.

Section 1 of the proposal sets out definitions that are used in the proposal.

Section 2 provides that, notwithstanding any other provisions of law, if an Indian tribe or community requests that it be given the control or operation of a program or service administered by the Federal Government the Secretary shall turn over to that tribe or community, within 120 days after request or such other period as may be agreed to, the control and operation of such program or service. Section 2 requires that the request made by the Indian tribe or community must be accompanied by a plan for carrying out the service or program requested. It authorizes the tribe or community to enter into agreements to carry out all or any part of the transferred program or service. The transfer authorized in this section shall stipulate the retrocession provision provided for in later subsections of this section.

In subsection (b) of section 2, the Secretary is required to provide assistance, other than financial assistance, to any Indian tribal organization who requests it during the period preceding or immediately following a transfer made under this proposal.

Subsection (c) of section 2 requires that for each fiscal year during which an Indian tribal organization engages in the operation or control of a program or service transferred to it under the provisions of this proposal, it must report to the Secretary, such report to include an accounting of the amounts and purposes for which Federal funds were expended. Subsection (c) also opens reports and records of the Indian tribal organization maintained in connection with such program or operation for audit by the Secretary and Comptroller General.

Subsection (d) provides that should an Indian Tribe or community request a retrocession to the Secretary of any program or service which it assumed pursuant to this proposal, such retrocession shall be effective 120 days after such request for retrocession or such later period as may be agreed to by the Secretary and the Indian tribal organization. This subsection specifically provides that retrocession of any program of service will not prejudice the Indian tribe or community's right to again assume control of the service or program.

In subsection (e) of section 2, if the Secretary determines that any program or service assumed by an Indian tribe is being accomplished in a manner which would violate the rights or endanger the health, safety or welfare of individual Indians served by such program or service or that there has been gross negligence or mismanagement in the use of Federal funds provided pursuant to this proposal, the Secretary may reassume control of the program or service under such regulations as he may prescribe but only after providing notice and hearing to the Indian tribal organization involved that he plans to reassume the program or service. The Secretary is authorized to retain the service or program until he is satisfied the problems causing him to reassume the service or program have been corrected.

Subsection (f) of section 2 provides that in the allocation of funds for programs and services to Indians, those Indian tribal organizations which assume control or operation of programs or services pursuant to this proposal or retrocede control or operation to the Secretary, shall be treated in the same manner as they would have been if the control and operation of the program or service had been maintained continuously by the Federal government.

Section 3 authorizes the Secretary, upon the request of any Indian group, to detail any Civil Service employee for a period of up to 180 days to assist the Indian group in its control or operation of a program or service transferred pursuant to this proposal. This section also provides that the Secretary may, upon a showing of need by an Indian group for a continuing need for the services of the detailed employee, extend the detail of the employee for a period of not to exceed 180 days.

Section 4 provides that nothing in this proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians.

As the President pointed out in his messages of July 8, 1970, it is necessary that we reject the suffocating pattern of paternalism that so many of our programs of the Indians have assumed. This proposal is aimed at destroying this pattern of paternalism by turning over to the Indians the control and operation of programs and services that are now extended to them by the Federal government. As the President stated:

"For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

"This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency."

This proposal will give any Indian tribe, band or group or community the right to request and assume the control to any program or service now extended to it by the Bureau of Indian Affairs of the Department of the Interior or the Indian health service program of the Public Health Service of the Department of Health, Education, and Welfare. These two program areas are the ones that deal most directly with our Indian people.

If any Indian group decides it is willing and able to assume administrative responsibility for a service or program which is presently administered by the Bureau of Indian Affairs or Public Health Service it can request that such service or program be turned over to it. The turn will be made after the tribe has consulted with the Department that is to transfer the service or program and has worked out a plan for the operation and control of the program or service to be transferred and submits the plan with its formal request.

The program or service will be transferred to the Indians if they persist in their request even if, in the judgment of the Secretary of the appropriate Department, they are not adequately equipped to control or operate the program or service. The transfer will be made subject to the rights of retrocession or reassumption as provided in the proposal. In those instances where there is a question about the adequacy of the Indian group to control or operate the transferred service or program the Secretary will monitor the program or service to be certain that the rights, health, safety and welfare of the individual Indians is not endangered. The proposal empowers the Secretary to move to reassume the service or the program at any point where he thinks the health, safety or welfare of an Indian is endangered. The proposal contemplates that the Secretary will make every effort to assist Indian groups in their efforts to assume the control and operation of the program or service. There is a provision in the proposal that will allow the Secretary to detail to the Indian group those civil servants that under a companion proposal to this bill will not transfer with the service or program to Indian control for periods up to 180 days with a right to extend the period for an additional 180 days in order to lend assistance on the transferred program or service.

The proposal makes it clear that there will be no discrimination against those tribes who assume control or operation of a service or program solely because of such assumption. This is an assurance to an Indian group that if it assumes control of a service or program that the service or program assumed by them will be given the same consideration in the allocation of budget funds as that program or service would have had if it had continued under the control of the Federal government. This assures the Indians they will not be penalized for assuming control or operation of a program or service.

The last section of the bill provides that nothing in this proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians. This provision makes it clear that even though an Indian group assumes the control and operation of a program or service, the Federal government continues its responsibility for that service and program and will continue to meet this responsibility.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

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

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., April 1, 1971.*

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

DEAR MR. PRESIDENT: Enclosed is our proposal "To retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes."

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

Section 1 of the proposal cites the bill as the "Federal Employees Indian Tribal Organization Transfer Act."

Section 2(a) of the proposal provides that notwithstanding any other statute, executive orders, or regulations, civil service employees serving under an appointment not limited to one year or less who, before December 31, 1981, transfer to an Indian tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities will be entitled, if agreed to by the employee and the Indian tribal organization to:

(1) Retain coverage, rights, and benefits under the provisions for compensation for work injuries and for the purposes of the proposal his employment with the Indian tribal organization is deemed employment by the United States. However, if an injured employee, or his dependents if he should die, receives any payment from the Indian tribal organization on account of the same injury or death, the amount of the tribal payment shall be credited against any benefits payable under the compensation for work injuries as provided in the proposal.

(2) To retain coverage, rights, and benefits under the retirement provisions of Government employment if necessary employee deductions and agency contributions in payment of the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Civil Service Retirement and Disability Fund and the period during which coverage, rights, and benefits are retained under this provision is deemed creditable service under the provisions of section 8332 of "title 5", United States Code. Any unused sick leave credited to an employee under a formal leave system at the time of his transfer to an Indian tribal organization will remain to his credit for retirement purposes during the period of his service with the Indian tribal organization.

(3) Retain coverage, rights, and benefits under the life insurance protection granted Federal employees if necessary employee deductions and agency contributions in payment for the coverage rights and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Life Insurance Fund, and the period during which life insurance rights and benefits are retained under this provision is deemed service as an employee for the life insurance program.

(4) Retain coverage, rights, and benefits under the Health Insurance Program provided Federal employees, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Health Benefits Funds in the period during which the health insurance coverage, rights, and benefits are retained under this provision is deemed service as an employee for the Health Insurance Program.

(5) Be reemployed within 30 days of his application for reemployment in his former position or in a position of like seniority, status, and pay in the agency from which he transferred, if he transferred at the time such

activity was transferred to an Indian tribal organization or within 90 calendar days after such transfer to an Indian tribal organization, if he makes the application for reemployment not later than 5 years after the date of his transfer to the Indian tribal organization or if the activity that was transferred to the Indian tribal organization is transferred back to the United States. On reemployment under this provision, the employee is entitled to the rate of basic pay to which he would be entitled had he remained in the agency from which he transferred. Upon reemployment, the agency will restore employees sick leave account by credit or cnarge to its status at the time of transfer. If at the time of transfer to the Indian tribal organization, the employee received a lump-sum payment for annual leave, if he is reemployed within one year of the date of his transfer under the provisions of this proposal, he will refund to the agency from which he transferred the amount of the lump-sum payment and the leave covered by said lump-sum payment will be restored to his account. Any employee reemployed under this provision will be able to count the period of his service with an Indian tribal organization as well as the period necessary to affect his reemployment as creditable service for all appropriate Civil Service employment purposes.

Section 2(b) provides that during an employee's period of service with the Indian tribal organization, that Indian tribal organization shall deposit currently in the appropriate funds the employee deductions and agency contributions for the retirement, life insurance, and health programs.

Section 3 provides that an employee who transfers to an Indian tribal organization pursuant to section 2 of this Proposal, such transfer being agreed to by the Indian tribal organization, must make the election to retain compensation for work injuries benefits, retirement benefits, life insurance benefits, and health insurance benefits, as provided in section 2 of this proposal prior to the date of his transfer.

Section 3 also provides that an employee who elects to retain benefit coverage under a transfer to one Indian tribal organization, may retain that coverage if he transfers to another Indian tribal organization to perform service activities of the type covered by section 2 of the proposal.

Section 4 of the proposal contains definitions used in the proposal.

Section 5 authorizes the President to prescribe regulations necessary to carry out the proposal and to protect and assure the compensation, retirement, insurance, leave, and reemployment rights and such other similar civil service rights as he finds appropriate.

Section 6 provides that this proposal will be effective 60 days after the date of its enactment.

This proposal is a companion to our proposal that authorizes Indian tribes to assume control and operation of programs and services now rendered for them by the Federal Government. In most instances, when these programs or services are transferred to an Indian tribal organization, the Indian tribal organization will request that certain employees who are operating the program or service be transferred with the program or service. Any effort to take over programs or services by any Indian tribal organization without a program for the continuity of manning that this proposal would provide, would be doomed to failure. This proposal allows civil service employees to transfer with the program or service and retain coverage that they now enjoy as civil servants and also give them for a period of 5 years, preferential reemployment rights.

The right of reemployment for a five-year period assures the civil service employee that he can transfer with the program or service that he is working with and continue his work without the danger of losing any of his rights. We believe this provision will be an important factor in getting civil service employees to make a transfer to an Indian tribal organization to lend continuity to the programs and services transferred to Indian tribal organization.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

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

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By Mr. MONDALE (for Mr. JACKSON) (by request):

S. 1575. A bill relating to the territory of Guam. Referred to the Committee on Interior and Insular Affairs.

S. 1575

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That section 101 (1) of title 32 of the United States Code is amended by adding at the end thereof the following: "For purposes of this title, the term 'territory' shall also mean Guam."

SEC. 2. The President of the United States is authorized to issue such rules and regulations as he may determine necessary in order to establish and maintain a National Guard for Guam.

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NATIONAL GUARD FOR GUAM

(Statement of Senator JACKSON)

Mr. President, I send to the desk for appropriate reference a bill relating to the territory of Guam which would authorize the President of the United States to issue such rules and regulations as he may determine necessary in order to establish and maintain a National Guard on Guam.

I ask unanimous consent that communications I have received from the Legislature of Guam and the territory's representative in Washington, Mr. A. B. Won Pat, requesting the introduction of this proposed legislation be printed in the Record following my remarks.

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TERRITORY OF GUAM, OFFICE OF GUAM'S REPRESENTATIVE IN WASHINGTON,
*Washington, D.C., March 22, 1971.*

Hon. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to Resolution No. 59, concerning the establishment of a National Guard unit on Guam, which the 11th Guam Legislature has officially submitted to you for consideration.

I fully support the Legislature in their request, for the need of such a military unit to serve the people of Guam in a time of emergency has long existed. The threat of a devastating natural disaster or other emergency affecting Guam remains ever present. And the existence of a National Guard unit, which could assist the civil government in providing aid and protection to our citizens, would be of the greatest benefit.

As a member of the Senate Interior and Armed Forces Committees, such legislation would naturally come under your jurisdiction, and accordingly, it would be greatly appreciated if you would sponsor this legislation.

Your interest in this matter is certainly appreciated, and should you or members of your staff require further information on this subject, I shall be happy to be of assistance.

With best wishes,

Sincerely yours,

A. B. WON PAT.

ELEVENTH GUAM LEGISLATURE,
*Agana, Territory of Guam, March 8, 1971.*

Hon. HENRY M. JACKSON,
*Chairman, Senate Interior and Insular Affairs, U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: Transmitted herewith is a copy of Resolution 59 "Relative to requesting the President and Congress of the United States to consider the establishment of a National Guard unit for the territory of Guam," which was adopted by the Eleventh Guam Legislature during its January 1971 Session.

Inasmuch as you are one of the most highly-revered and influential member of the U.S. Congress to whom we can look forward for leadership and guidance, and the fact that you have manifested your concern and interest in legislation of major significance to Guam and its populace, I am henceforth seeking your personal support and assistance on Resolution 59.

As you may know, the old Guam militia, which was the insular version of a National Guard unit, has long been inactive. In the light of Guam's rapid growth and development, we now feel that this should be reactivated along the National Guard unit concept. This, we feel, should meet any emergency should one arise. We also feel, and I am sure you will concur, that the creation of such a unit on Guam, comparable to those in the U.S. Mainland, will be in keeping with the national and local security interest which we consider is of prime importance if we are to maintain the fullest measure of security possible, both locally and nationally.

For your information, I am also enclosing a copy of a letter from Mr. Leonard Sine, Commander of the Army Reserve Group on Guam, wholeheartedly endorsing the aforementioned resolution, and a copy of a news release which appeared in a recent issue of the Pacific Daily News.

The people of Guam look upon you as a friend, compassionate with our problems and needs. It is our fervent hope that you, as chairman of the Senate Interior and Insular Affairs Committee, will give this resolution the support and attention it urgently needs and deserves.

Please rest assured that my Office will be open to you and your staff for any assistance or information you might need regarding this matter.

Thank you for your consideration.

Sincerely,

TOMAS C. CHARFAUROS.

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RESOLUTION NO. 59 RELATIVE TO REQUESTING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CONSIDER THE ESTABLISHMENT OF A NATIONAL GUARD UNIT FOR THE TERRITORY GUAM

Be it resolved by the Legislature of the Territory of Guam:

Whereas, the old Guam militia, so active in Pre-World War II days, has been dormant for the last decade; and

Whereas, the Governor's authority with respect to calling upon the Armed Forces of the United States in the event of an emergency causes a certain disquiet in that it is limited to requesting assistance, which assistance "may be given" at the discretion of such Armed Forces; and

Whereas, there is thus available to the Governor no immediate military force in the event of emergencies requiring such a force; and

Whereas, every state of the union and most of the territories have at their disposal National Guard units which serve as state militia in the event of emergencies, and which provide an opportunity for the men composing the various National Guard units to participate in military training and to prepare for their nation's defense in times of need; and

Whereas, the Legislature has determined that it is in the best interest of this territory that a National Guard unit be established; now therefore be it

Resolved, that the President and Congress of the United States be and they are hereby respectfully requested to consider the establishment of a National Guard unit in the territory of Guam; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives, to the Chairmen, Committees on Interior and Insular Affairs, U.S. Senate and House, to Guam's Washington Representative, to the Secretary of the Interior, to the Secretary of Defense, to the Secretary of the Army, to the Secretary of the Navy, and to the Governor of Guam.

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FEBRUARY 10, 1971.

Senator T. C. CHARFAUROS,
*Chairman, Public Safety, Military and Veterans Affairs, Guam Legislature Building, Agana, Guam.*

DEAR SENATOR CHARFAUROS: As I indicated to you in your office recently, the officers and men—including myself—render their entire support to Resolution No. 59 relative to the establishment of a National Guard Unit on Guam.

We stand ready to transfer—as a Unit or individually—from an active Army Reserve Group to the proposed National Guard status to either form the nucleus or to bolster the reactivation of the Guam Militia thereby creating a cadre for such a Guard.

Do not hesitate to call on us for support or information wherever or whenever necessary. Attached are copies of the letter that I mentioned to you which I personally distributed to our Guamanian servicemen now serving in Vietnam. Should any of these men join our Unit, I feel certain that they would have no objection to a transfer to the Guam National Guard upon its inception.

LEONARD SINE,
*Col. TC-USAR, Commanding.*

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MODERN MILITIA FOR GUAM

The old Guam militia, so active in World War II days, may form again, but as a modern, technically trained and Federally financed National Guard Unit, well-prepared for any emergency arising from local or foreign sources as well as from natural or man-made disasters.

The 11th Guam Legislature last week adopted a resolution requesting President Nixon and the Congress of the United States to consider instituting a National Guard unit in keeping with the practice in all fifty states and most of the U.S. territories.

Senator Tomas C. Charfauros, the resolution's sponsor, pointed out that this 30-mile long island, strategically located at the cross-roads of the Pacific has been without the old Guam militia for the past decade. "While the U.S. Armed Forces have installations on Guam, these are for the most part air wings, naval operations and communications units," the Senator said.

"These units are limited in type of assistance which could be offered in response to a request from the Governor because they do not have the capacity of training to secure an area beset by an emergency," he said.

Charfauros intimated that with rumblings of Communist-inspired insurrection in various parts of the far east and in some Pacific island communities, it is important that Guamanian men, who have a long-standing loyalty to the U.S.A., be given basic military training in preparation for the defense of their nation if such need should arise. He said that Guam today has a high rate per capita of young men serving in Vietnam and in other military units wherever the U.S. flag flies.

"Of course, it's a two way street insofar as benefits to the Federal and Territorial governments go," Charfauros said. "A Guard unit would give the Governor a trained force in the event of an emergency such as a civil disturbance or a devastating disaster of nature," he explained. "With the never-ending threat of a typhoon looming out there in the Pacific, we can never be complacent about the security of our island community," the Senator said.

The resolution was adopted unanimously by the Legislature and was transmitted to the President and Congress on February 6, 1971. Copies were sent to the Secretaries of Defense, Army, Navy, Interior and to the Governor of Guam.

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By Mr. TAFT (for himself, Mr. ALLOTT, Mr. BEALL, Mr. BURDICK, Mr. HATFIELD, Mr. JORDAN of Idaho, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MOSS, Mr. PACKWOOD, Mr. PEARSON, Mr. SAXBE, and Mr. YOUNG):

Senate Joint Resolution 88. A joint resolution authorizing additional appropriations to the Secretary of Transportation for the purpose of providing urgently needed intercity rail passenger service around the Nation and for the purpose of research and development in the field of high-speed ground transportation, and for other purposes. Referred to the Committee on Commerce.

INTERCITY RAIL PASSENGER SERVICE AND HIGH-SPEED GROUND TRANSPORTATION RESEARCH AND DEVELOPMENT

Mr. TAFT. Mr. President, I expect today to introduce, for appropriate reference, a joint resolution to provide $250 million for intercity rail passenger service and high-speed ground transportation research and development.

I am pleased that this measure is being cosponsored by Senators ALLOTT, BEALL, BURDICK, HATFIELD, JORDAN of Idaho, MANSFIELD, MCGEE, METCALF, MOSS, PACKWOOD, PEARSON, SAXBE, and YOUNG.

I am also submitting on behalf of my good friend, the distinguished Senator from Kansas (Mr. PEARSON), an amendment which would add important connector service between Kansas City and Denver. The Senator from Kansas is unavoidably out of the city today and has asked me to submit this amendment to my measure on his behalf, which I am delighted to do. Mr. President, a similar but not identical bill has been introduced in the House by Representative JACK F. KEMP, of New York.

The recent announcement by the incorporators of the National Railroad Passenger Corporation of intended routes of service came as a shock to many of us. Important parts of the country were entirely eliminated. The city of Cleveland, for example, once one of the Nation's most important rail passenger centers, will be entirely without service under the announced plan.

We must recognize that the incorporators could not provide all of the desired service in light of the financial losses which are expected. Consequently, I believe that additional funding is mandatory.

To be a success, Railpax must provide good equipment, fast service, and connect important population corridors. Unless these corridors are brought within the system, there will be a corresponding passenger loss throughout the remainder of the system.

Under the measure which I am introducing today, 75 percent of the $250 million authorized would be used by the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for intercity rail passenger service. This would improve service on the routes already designated. In addition, this measure would require that service be inaugurated on the following routes:

First. Buffalo, N.Y., to Chicago, Ill., via Erie, Pa.; Cleveland, Ohio; Toledo, Ohio; and South Bend, Ind.

Second. Detroit, Mich., to Toledo, Ohio.

Third. Denver, Colo., to Portland, Oreg., via Cheyenne, Wyo.; Ogden, Utah; and Boise, Idaho.

Fourth. Fargo, N. Dak., to Portland, Oreg., via Billings, Mont.; Butte, Mont.; Spokane, Wash.; and Hinkle, Wash.

Fifth. Denver, Colo., to San Francisco, via Cheyenne, Wyo.; Ogden, Utah; and Wells, Nev.

Sixth. Washington, D.C., to Cleveland, Ohio, via Cumberland, Md.; Pittsburgh, Pa.; Youngstown, Ohio; and Akron, Ohio.

With respect to the route from Buffalo through Erie, Cleveland, and Toledo and South Bend to Chicago, I would point out that this route traverses a population corridor encompassing 25 million people. In my judgment, the inclusion of this route is essential for the generation of sufficient passenger traffic to sustain the remainder of the system. The service between Detroit and Toledo would be an important connector to give the State of Michigan rail access to the East.

This measure contains payback provisions with respect to all grants to the National Railroad Passenger Corporation for intercity passenger service. At such time as passenger service becomes profitable, the corporation would reimburse the Secretary for these grants out of profits.

Twenty-five percent of the funds authorized under this measure would be used for research and development in the area of high-speed ground transportation. If Railpax is to be a success, the traveling public must be provided with better service. We cannot expect passengers to flock to old rickety cars built 40 years ago. Research and development are required to make rail passenger service viable.

Of equal importance, this bill would save approximately 40 percent of the 16,000 jobs which may be eliminated under the existing Railpax plan.

Those of us in the Congress must recognize that the National Railroad Passenger Corporation has not been adequately funded. If Railpax is not to become a monumental albatross, we must give it the technology and financial resources which will enable it to provide good, fast, clean passenger service to the American people in the years ahead.

Finally, this measure would amend section 403 to reduce the share of the losses which State, regional, and local agencies would have to bear for additional service

not now contemplated by Railpax. Under this measure, State, regional, and local agencies would be obligated to assume only one-third of the losses to the extent of the first $5 million and two-thirds of the losses in excess thereof. I believe that this is a more realistic formula if State and local agencies are to undertake the obligations of providing supplemental rail service.

Mr. President, this measure has received the endorsement of the United Transportation Union, and I ask unanimous consent that a copy of their letter to me dated April 12, 1971, appear in the RECORD as a part of my remarks, and that the text of this measure also be printed in the RECORD.

There being no objection, the letter and the text of the joint resolution were ordered to be printed in the RECORD, as follows:

UNITED TRANSPORTATION UNION,
*Washington, D.C., April 12, 1971.*

Hon. ROBERT TAFT, Jr.
*U.S. Senate, New Senate Office Building, Washington, D.C.*

DEAR SENATOR TAFT: We understand that you plan to introduce a bill in the next few days which would call for increasing the funding of the National Railroad Passenger Corporation by $250,000,000. This would permit the addition of a number of passenger trains to serve areas and important population centers which have been left out of the initial passenger network.

We support the bill you are introducing because we believe that the National Railroad Passenger Corporation was underfinanced when it was created. It must be assumed that the United States now has a skeleton railroad passenger service, and it was not through a desire to cut this skeleton service in half that the Incorporators reduced the number of trains presently operating. They were forced by the inadequately funded law to set up the system which they recognized had great deficiencies but for which there was no other recourse if there was to be any national rail service at all.

We further support your proposal because we know that it will help correct the basic deficiencies of the service now imposed by the present funding. Any weakly financed operation will, in our view, fail—no matter what it merits. Many Members of the Congress must now realize that it will take many millions of dollars to create and operate a modern, clean and attractive rail passenger service, particularly in view of the long years gone by, during which America's passenger service has been allowed to deteriorate.

Therefore, because your bill will permit better funding, make possible service needed by areas that had to be omitted in the original plan, will permit greater employment for railroad workers, and—perhaps most important—will give the American Public a better rail passenger service to which we believe they are entitled, we support your bill. The service it would provide should over the long term prove profitable with an ever increasing growth potential.

Kindest regards.

Respectfully,

AL H. CHESSER,
*National Legislative Director.*

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S.J. RES. 88

Joint resolution authorizing additional appropriations to the Secretary of Transportation for the purpose of providing urgently needed intercity rail passenger service around the nation and for the purpose of research and development in the field of high-speed ground transportation, and for other purposes

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is authorized to be appropriated to the Secretary of Transportation in the fiscal year 1972, $250,000,000 for expenditure by him to provide additional intercity rail transportation under section 2 of this Act and for the purpose of research and development in the field of high-speed ground transportation under section 3 of this Act. Amounts appropriated under this section are authorized to remain available until expended.

SEC. 2. (a) Of the amounts appropriated under section 1 of this Act, 75 per centum shall be used by the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for the purpose of initiating and operating urgently needed intercity rail passenger service around the nation, including but not limited to the routes designated by the National Railroad Passenger Corporation for service effective May 1, 1971 and the following additional routes:

(1) Buffalo, New York, to Chicago, Illinois, via Erie, Pennsylvania; Cleveland, Ohio; Toledo, Ohio; and South Bend, Indiana.

(2) Detroit, Michigan to Toledo, Ohio.

(3) Denver, Colorado to Portland, Oregon, via Cheyenne, Wyoming; Ogden, Utah; and Boise, Idaho.

(4) Fargo, North Dakota, to Portland Oregon, via Billings, Montana; Butte, Montana; Spokane, Washington; Hinkle, Washington.

(5) Denver, Colorado, to San Francisco, via Cheyenne, Wyoming; Ogden, Utah; and Wells, Nevada.

(6) Washington, District of Columbia, to Cleveland, Ohio, via Cumberland, Maryland; Pittsburgh, Pennsylvania; Youngstown, Ohio; and Akron, Ohio.

(b) In any case in which the Secretary of Transportation makes a grant to the National Railroad Passenger Corporation from amounts appropriated under section 1 of this Act, he shall negotiate with the Corporation the terms of an agreement providing that, if the route initiated and operated by the Corporation with such grant becomes a profit-making route, the Corporation will agree to make reasonable payments to the Secretary (out of such profits) by means of installments until such time as the grant with respect to such route has been repaid in full. Amounts received by the Secretary under any agreement negotiated under this section shall be covered into the Treasury as miscellaneous receipts.

SEC. 3. Of the amounts appropriated under section 1 of this Act, 25 per centum shall be used by the Secretary of Transportation to undertake research and development in high-speed ground transportation, including but not limited to, components such as materials, aerodynamics, vehicle propulsion, vehicle control, communications, right-of-way research and development, and guideways, in accordance with the provisions of section 1 of the Act of September 30, 1965, relating to research and development in high-speed ground transportation (49 U.S.C. 1631).

SEC. 4. (a) The first sentence of section 403(c) of the Rail Passenger Service Act of 1970 (84 Stat. 1336) is amended to read as follows: "For the purposes of this section, the reasonable portion of such losses, not to exceed an aggregate of $5,000,000 annually, to be assumed by the State, regional, or local agency shall be 33⅓ per centum of the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to such service, and the reasonable portion of any such losses in excess of $5,000,000 annually to be so assumed shall be 66⅔ per centum thereof."

(b) The first sentence of section 404(b)(4) of such Act (84 Stat. 1336) is amended to read as follows: "For the purposes of paragraph (3) of this subsection, the reasonable portion of such losses, not to exceed an aggregate of $5,000,000 annually, to be assumed by the State, regional, or local agency shall be 33⅓ per centum of the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to such service, and the reasonable portion of such losses in excses of $5,000,000 annually to be so assumed shall be 66⅔ per centum thereof."

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## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 23

At the request of Mr. SCHWEIKER, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 23, the Ethnic Heritage Studies Centers Act of 1971.

S. 78

At the request of Mr. NELSON, the Senator from Indiana (Mr. BAYH), and the Senator from North Carolina (Mr. JORDAN) were added as cosponsors of S. 78, a bill to prohibit the hunting of wildlife from aircraft.

S. 120

At the request of Mr. SCHWEIKER, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 120, a bill to prohibit assaults on policemen, firemen, and judicial officers.

S. 376

At the request of Mr. MCGOVERN, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 376, the Vietnam Disengagement Act of 1971.

S. 903

At the request of Mr. PACKWOOD, the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BIBLE), the Senator from Kentucky (Mr. COOPER), the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Florida (Mr. GURNEY), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 903, a bill to exempt from induction and training, under the Selective Service Act, the surviving sons of a family which has lost two or more members as the result of military service.

S. 1018

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Idaho (Mr. CHURCH), I ask unanimous consent that the names of the Senators from Arkansas (Mr. MCCLELLAN and Mr. FULBRIGHT) be added as cosponsors of S. 1018, to require the Secretary of Transportation to designate at least one major population center in each of the con-

tiguous 48 States to receive rail passenger service under Railpax.

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

S. 1085

At the request of Mr. HANSEN, the Senator from North Carolina (Mr. JORDAN) was added as a cosponsor of S. 1085, relating to the labeling of imported meat.

S. 1188

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Idaho (Mr. CHURCH), I ask unanimous consent that the names of the Senator from Kansas (Mr. DOLE), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of S. 1188, a bill to amend the Foreign Aid Assistance Act.

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

S. 1241

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 1241, a bill to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended.

S. 1251

At the request of Mr. HANSEN, the Senator from North Dakota (Mr. BURDICK) and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 1251, a bill relating to amending the Meat Import Act of 1964.

S. 1431

At the request of Mr. PERCY, the Senator from Oregon (Mr. HATFIELD) and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of S. 1431, a bill to promote more effective management of certain related functions of the executive branch by creating a new Department of Natural Resources.

S. 1430, S. 1431, S. 1432, S. 1433

At the request of Mr. PERCY, the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 1430, a bill to create a new Department of Community Development; S. 1431, a bill to create a new Department of Natural Resources; S. 1432, a bill to create a new Department of Human Resources; and S. 1433, a bill to create a new Department of Economic Affairs.

S. 1461

At the request of Mr. MCGOVERN, the Senator from Oklahoma (Mr. HARRIS), the Senator from Alaska (Mr. GRAVEL), and the Senater from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 1461, the Truth in Advertising Act of 1971.

SENATE JOINT RESOLUTION 34

At the request of Mr. SCOTT, the Senator from North Carolina (Mr. JORDAN) was added as a cosponsor of Senate Joint Resolution 34, proposing an amendment to the Constitution of the United States with respect to the offering of voluntary prayer or meditation in public schools and other public buildings.

## SENATE RESOLUTION 99—SUBMISSION OF A RESOLUTION RELATING TO THE CONFLICT IN PAKISTAN

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Oklahoma (Mr. HARRIS), who is absent on official business, I submit on his behalf and at his request a resolution and ask for its appropriate referral. A statement Senator HARRIS prepared in relation to the submission of this resolution is also included and I ask unanimous consent that the statement and the resolution be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred; and, without objection, the resolution and statement will be printed in the RECORD.

The resolution (S. Res. 99), which was submitted by Mr. MANSFIELD (on behalf of Mr. HARRIS), was referred to the Committee on Foreign Relations, as follows:

S. RES. 99

Whereas a Pakistan united by the free will of its people is in the interests of concerned nations of the world;

Whereas the present conflict in East Pakistan, if continued, will make it impossible for the Pakistani people to live again in unity;

Whereas the expulsion of foreign correspondents makes it impossible for the outside world to evaluate reports of mass executions occurring in Pakistan;

Whereas reports that arms from other nations, including American arms, are contributing to the protraction of the conflict;

Whereas, unless outside powers refuse to supply arms to either party to the Pakistani conflict, that conflict may continue for years with only misery, violence, and absence of peace the victors; and

Whereas, as the conflict continues, the likelihood of involvement by other nations increases: Now, therefore, be it

*Resolved,* That the Senate respectfully recommends to the President that the United States propose before the United Nations Security Council that (1) all nations now providing, or in a position to provide, military assistance to Pakistan agree to halt all arms deliveries to either party to the Pakistani conflict; (2) all nations providing economic aid to Pakistan agree to withhold such aid until the conflict ceases; and (3) all nations providing economic aid to Pakistan also declare their firm intention to resume providing economic aid, including aid which was withheld, as soon as the conflict ends.

SEC. 2. Pending UN consideration of the proposals advanced, the Senate urges the President temporarily to institute a total ban on arms deliveries to either side in Pakistan and a placement of all United States aid funds to Pakistan in escrow.

SEC. 3. It is the sense of the Senate that the United States should seek the establishment of a special international reconstruction fund to assist all parties to the present Pakistani conflict to recover from the effects of that conflict.

SEC. 4. The Senate urges the Secretary General of the United Nations to appoint a respected statesman from a Moslem nation to establish contact with officials in Pakistan, including Shiek Mujibur Rahman, with a view to bringing the conflict to a halt.

STATEMENT OF SENATOR HARRIS

Mr. President, the killing in East Pakistan and the potential diplomatic consequences of the fighting there no longer permit this body to remain silent. Today I am submitting a resolution recommending to the President that he urge the United Nations to play a more positive and active role in this crisis.

Specifically, my resolution recommends that the United States propose before the United Nations Security Council: That all countries now providing, or in a position to provide, military assistance to Pakistan agree to halt all arms deliveries to either side.—That all countries now providing economic aid to Pakistan agree to place all funds in escrow until the fighting ceases.—That these same countries declare their firm intention to resume economic aid as soon as peace is restored.

The resolution also expresses the sense of the Senate in favor of the United States participation in a special international reconstruction fund which would be used to aid all parties to the present conflict to recover from the effects of the fighting. Finally, it urges the Secretary of the United Nations to appoint a respected statesman from a Moslem nation to establish contact with officials in Pakistan including Shiek Mujibur Rahman with a view to bringing the fighting to a halt.

The need for international action through the UN is now urgent. The situation in East Pakistan is a diplomatic powder keg, potentially as explosive as the situation in the Middle East. For here, in addition to the hatred between India and Pakistan, we have the rivalry between India and the People's Republic of China as well as the major interests of the Soviet Union and the United States in the subcontinent. A diplomatic balance involving so many interested powers can only be highly unstable. Necessarily, it is a victim to the course of events. Indeed the longer the fighting continues, the more likely it is that through miscalculation or opportunity one or more outside powers will become more directly involved.

Already there have been reports, denied but repeated, that India is beginning to supply the East Bengalis. Already the People's Republic of China has issued a pledge of support for the central Pakistan Government. Already the Soviet Union has expressed its "great alarm" at the use of force in East Pakistan.

Unless there is a sudden collapse of resistance, we have therefore the potential for a prolonged conflict. Suppose India were to supply the East Bengalis along the 1,349 mile border between India and East Pakistan. Suppose the People's Republic of China were to line up solidly in support of the central Pakistan Government. There could be months, even years of fighting. And in the midst of charge and countercharge, it is not difficult to imagine Indian-Pakistani or Indian-Chinese hostilities flaring out once again on the subcontinent.

To what degree the People's Republic of China will remain committed to the cause of the central Pakistan Government is not clear. It is noteworthy, however, that in 1959 the People's Republic of China moved to crush a popular revolt in Tibet. Although Pakistan voted in favor of a 1959 UN resolution critical of the intervention, it subsequently shifted its position and provided tacit support to the actions of the Chinese Communist Government by refusing to vote in favor of a similar resolution in 1961. The People's Republic of China

may view the actions of the central Government in East Bengal as similar to its own actions in Tibet.

It is also important to note that even if the People's Republic of China were to join India in support of those resisting in East Bengal, the prospects of rising tension between India and China would not necessarily diminish. Should prolonged fighting in East Pakistan drive those in resistance into increasingly extreme actions, there is genuine concern in India of a radical independent East Bengal arising which will join hands with discontented elements favoring the secession of India's own West Bengal, including Calcutta. In these fears we glimpse the troubling prospect of an Indian-Chinese struggle for influence over any new government in East Pakistan.

In short, whether the People's Republic of China sides with the central Pakistan Government or with the East Bengalis, it is possible that the stage is now being set for a renewal of heightened tension, perhaps even hostilities, between China, India and Pakistan. Were this to happen, outside powers like the United States and the Soviet Union would find themselves increasingly under pressure to take sides in the form of economic aid, arms shipments, or even military action.

Working through the United Nations to halt arms shipments to either side and to place economic assistance funds temporarily in escrow holds out some hope that the fighting will end quickly before outside powers commit themselves too deeply. Making the fighting both more difficult and more expensive may encourage both sides to resume negotiations, taking into account the clear price of failure which now surrounds them. In his reply to President Podgorny of the Soviet Union, President Yahya Khan stated his intention to start talks with "rational representative elements in East Pakistan at the earliest opportunity." Now cannot be soon enough.

Hopefully, knowledge that the world is prepared to assist with the expense of reconstruction also will encourage reconciliation between fellow Pakistanis.

Some believe that simply halting our own arms deliveries would suffice. I disagree. For some time the central Pakistan Government has been drawing down its reserves to buy arms on a cash and carry basis. Thus in January 1971, Pakistan's reserves totalled only $184 million whereas they totalled $342 million a year before. United States cash sales for Pakistan and India are classified so we cannot know how much of this money was spent on United States arms. Pakistan units operating in East Bengal, however, are known to be using U.S., Soviet and Chinese arms.

We must underscore that West Pakistan's monthly imports average approximately $70 million a month whereas her exports average only $28 million. At the same time, the conflict in East Bengal, which involves massive logistical outlays, is reputedly costing as much as $70 million a month. And so long as the war continues, Pakistan is deprived of the valuable exports of jute from East Pakistan, which traditionally account for about one-half of all Pakistani exports.

According to newspaper reports, a senior Pakistani finance official, Azi Ali Mohammed, is now in Washington to obtain four objectives:

To persuade the United States to speed up delivery of the uncommitted portion of the current fiscal year's 120 million in aid funds.

To obtain a moratorium from the World Bank on a forthcoming $40 million repayment.

To receive a standby credit of $175 million from the International Monetary Fund.

To convene a meeting of the Pakistan consortium, which includes the United States, Britain, France, West Germany, Italy, Belgium, the Netherlands, and Japan.

The timing of this visit could not make more clear the close relationship between the prosecution of this war and its further financing. A decision in present circumstances to continue economic assistance is nothing other than a decision to support those forces favoring the conflict's prolongation and to weaken those working for its peaceful resolution.

The events in East Pakistan constitute a civil war. For that reason I do not believe outside powers should take sides. My concern is that by granting aid outside powers do take sides. They, in effect, state that they wish to contribute to the war effort of the central Pakistan Government. Unfortunately, donor countries cannot avoid this dilemma by earmarking aid funds for specific purposes. Money of all commodities is supremely fungible. When foreigners earmark aid funds for one purpose, the receiving government is able to trim its own allocations in this area. Meanwhile, the war continues.

In East Pakistan our correspondents have been expelled. Our diplomats are reduced in number. No impartial outside official is able to observe conditions in East Pakistan freely. Reports, necessarily unconfirmed, each day descend on us of frightful slaughter, first by the army, then by the other side. We are thus in the worst of positions—forbidden to obtain information, importuned to help. Under such circumstances the only reasonable course for ourselves and other nations is to adopt a neutral stance—to halt arms sales to both sides and to place all economic assistance funds in escrow.

A case can be made that any adjustments in our aid program should exclude food shipments which benefit the hungry East Bengalis already hard hit by the November 1970 cyclone. Unfortunately, the April 15 New York Times carries a despatch from East Pakistan which reports that the army of the central Pakistan Government is destroying food stocks in East Bengal in an effort to stamp out resistance. This is an issue which our Government should, and I know, will keep under constant review. But it makes no sense to continue to ship food to East Pakistan when the army is in the process of destroying it.

We must hope that in the end both sides in Pakistan will see reason and abandon the folly of violence. It is true that the central Pakistan Government can press ahead with a policy of suppression. But even if successful, suppression inevitably will leave a residue of communal hatred which will weaken Pakistan at every turning point in its national history. Suppression is a policy that may lead to temporary success, but could result in ultimate demise.

Those in resistance, on the other hand, may press ahead for the complete destruction of Pakistan as a nation and for final independence for East Bengal. These objectives will be purchased, however, at a fearful price is blood and devastation. Moreover, whereas Pakistan is now a major actor in the Sino-Indian drama, an independent East Pakistan may be no more than a pawn. The valuable role that Pakistan plays in world politics also would be lost.

Unless the alternative is permanent suppression, at some point there must be a renewal of negotiations. This is true whether the outcome is reconciliation or final independence. It is then that a respected Moslem statesman selected by the UN Secretary General for his wisdom and impartiality may be able to assist the two sides in talking to one another after weeks or months of bitter fighting.

Currently, the two sides may refuse to make use of the services of an impartial statesman. But this is no reason to delay his selection. He can be preparing for the moment when he will be needed.

One objection to the approach outlined may be concern that the UN is incapable of action. UN bodies could find themselves paralyzed as so often they have paralyzed on other international issues.

This possibility cannot be denied, but I believe it is incumbent on UN members as their first response to any world crisis to make an effort to mobilize international peacekeeping machinery. If there is any chance that an international approach can be worked out, that chance should be seized. Nothing is lost and nations may always turn to unilateral adjustments in their policy after others have aborted an attempt to use UN machinery.

Pending UN treatment of the proposals advanced, the only policy appropriate and consistent for the United States will be informally to implement a total ban on arms deliveries to either side in Pakistan and a placement of all United States aid funds to Pakistan in escrow. Later, in the event common action through the United Nations proves impossible, the United States may make its policy formal, reviewing it in light of events at the time.

## ADDITIONAL COSPONSORS OF RESOLUTION

SENATE RESOLUTION 73

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Nebraska (Mr. CURTIS) and the Senator from Florida (Mr. GURNEY) be added as cosponsors of Senate Resolution 73, a resolution to amend Rule XVI of the Standing Rules of the Senate.

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

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from North Dakota (Mr. YOUNG) and the Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of Senate Resolution 73, a resolution to amend Rule XVI of the Standing Rules of the Senate.

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

## INTERCITY RAIL PASSENGER SERVICE AND HIGH-SPEED GROUND TRANSPORTATION RESEARCH AND DEVELOPMENT—AMENDMENT

AMENDMENT NO. 36

Mr. TAFT, on behalf of Mr. PEARSON, submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 88) authorizing additional appropriations to the Secretary of Transportation for the purpose of providing urgently needed intercity rail passenger service around the Nation and for the purpose of research and development in the field of high-speed ground transportation, and for other purposes, which was received, ordered to be printed, and appropriately referred.

The amendment—No. 36—was referred to the Committee on Commerce.

## EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 45 AND 46

Mr. ERVIN submitted two amendments intended to be proposed by him to the bill (S. 1557) to provide financial as-

sistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes, which were received, ordered to be printed, and to lie on the table.

## NOTICE OF HEARINGS OF THE SUBCOMMITTEE ON CHILDREN AND YOUTH

Mr. MONDALE. Mr. President, in accordance with the requirements of section 111(a) of the Legislative Reorganization Act of 1970, I announce that the Subcommittee on Children and Youth will hold hearings on Monday, April 26 and Tuesday, April 27.

These hearings will examine the recommendations of the White House Conference on Children including the conference's recommendations concerning child development.

## THE UNITED STATES AS A WORLD PEACE POWER

Mr. BELLMON. Mr. President, the President of the United States has made a step in the direction of world peace by easing a 22-year embargo on trade with Red China. It is a step in the direction of peace since it opens a communications channel that historically has brought greater understanding between nations of the world. Trade and visitor exchanges put nation-to-nation relations on a people-to-people basis. Events have shown that people can be a powerful influence upon the actions of any government.

The President's action deserves our support and the support of all Americans since it demonstrates our Nation's willingness to temper its role as a world military power and more substantively emphasize our role as a world peace power.

The President's cautious but significant steps toward improved relations with Peking are well timed.

He has made them following announcement of further U.S. troop withdrawals from South Vietnam.

He has made them at a time the strategic arms limitations talks are showing signs of progress.

He has made them after a plea for world peace through disarmament was issued by the Soviet Union's Communist Party.

He has made them after Premier Chou En-lai proclaimed in Peking that "a new page in relations" between the United States and Red China has been opened.

His timing is right. This Nation needs to take the initiative and give encouragement to further moves toward improved international communications and understanding.

Americans can see the futility of continuing to try to ignore the existence of one-fourth of the world's people who only 25 years ago were fast friends and trading partners. The Chinese were our allies in World War II and there is certain to yet remain a great reservoir of good will between the Chinese and American people. But that reservoir has been untapped since the Communist takeover of the China Mainland, because our system of withholding diplomatic recognition has made impossible even private attempts to maintain a bond between the two peoples.

Mr. President, such a recognition system makes little sense when evidence clearly shows our refusal to trade and communicate with the people of Red China has and is causing no change in their system of government. The fact is that when a government emerges, whether we agree with its doctrine or not, whether we recognize it or not, that government still governs. More important, the people ruled by that government are still there. With them rests the power potential to change the government structure which rules them. It is not the policy of our Government to undertake to destroy another government on the basis that we do not agree with its doctrine. Since we have long accepted the reality of other governments it seems that the time has now come to also accept the practicality of other governments. It is time to stop dealing in absolutes in international relations by allowing the maximum communication and commerce between citizens of this Nation and citizens of other nations consistent with national security considerations.

Americans have become highly aware of the importance of effective, open communication among the varying segments of our own society, between the young and old, between blacks and whites, labor and management, Federal Government and local government. We have found out, in the last decade particularly, the turmoil that can result when individuals refuse to sit down and reason together. Nationally we have discovered that problems are not solved, and misunderstandings are not resolved when they are ignored. The time has come to make the same discovery internationally.

Mr. President, little has been accomplished by ignoring China. In fact little seems to ever be accomplished when our country cuts off all relations with any other country.

President Nixon has renewed national and international hope for greater understanding and reduced world tension by removing at least part of the needless obstacles standing between the United States and the people of China. The junior Senator from Oklahoma applauds his actions.

## "FACE THE NATION"

Mr. PACKWOOD. Mr. President, as one Senator who has supported the President's actions in Vietnam, and I think I plan to do so in the future, I should like to comment briefly on my reaction to Representative MCCLOSKEY's appearance on "Face the Nation" yesterday.

As I watched the program, it appeared to me as if Representative MCCLOSKEY was saying only one thing; that was that villages in Laos are being bombed as a matter of deliberate policy, whether for military reasons or otherwise, and that the American public is not being told about it. He further alleged that he had endeavored to find out about it, that he had asked the Air Force for pictures or other evidence that villages still exist, and that no evidence has been forthcoming that they do. I did not sense that he attributed any ill motive to the President. In a number of occasions he indicated he thought the President might not be aware of what was happening to those villages as a result of American bombing action.

Without in any way commenting on the correctness or incorrectness of the Congressman's charge, I wish to state that I regard PETE MCCLOSKEY as one of my closest friends in Washington. He is a man of unquestioned integrity. Our country and the Republican Party would be better off with more men in Congress of PETE MCCLOSKEY's stature and conviction.

## QUORUM CALL

The PRESIDING OFFICER (Mr. ALLEN). Is there further morning business?

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. The Senate will receive a message from the President of the United States.

## MESSAGE FROM THE PRESIDENT

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

## DISTRICT OF COLUMBIA BUDGET—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–15, PART II)

The ACTING PRESIDENT pro tempore (Mr. TUNNEY) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations:

*To the Congress of the United States:*

I am transmitting to the Congress the budget for the District of Columbia for the fiscal year beginning July 1, 1971.

This budget presents the District government's plans and programs to meet the highest priority needs of the city. Consistent with the objectives of the Reorganization Plan #3 of 1967, this budget is the product of full, intensive deliberations by both the Mayor and the City Council.

My review of the proposed fiscal year 1972 District budget approved by the District of Columbia Council indicates that its appropriation requests do not provide for the full year costs of programs which have been approved by the Council for partial year funding in fiscal year 1971. These costs were included in the Mayor's budget proposals submitted to the City Council, but were eliminated during Council review.

Under the District budget approved by the Council, such important programs as implementation of the new court reform legislation and expansion of the Wash-

ington Technical Institute and Federal City College are not funded after June 30, 1971. Furthermore, the budget requests do not provide for the fiscal year 1972 costs of the pay raises granted during fiscal year 1971 and which are currently in effect.

In view of these omissions, the District budget approved by the City Council does not present to the Congress a complete statement of the budget requirements of the District for fiscal year 1972. I have therefore modified the fiscal year 1972 District budget request to include the full year costs—totalling approximately $31 million—of programs and pay raises which have been or will be initiated in fiscal year 1971 by supplemental appropriation requests. I feel this is clearly the only fiscally responsible course of action and is in accord with the budgetary practices and standards which have been established for Federal agencies.

The proposed fiscal year 1972 District expenditure requests I am transmitting today will require over $90 million from revenue sources which are not now authorized. To help balance these D.C. budget requests, I have requested a $27 million increase in the Federal contribution to the city, and the Mayor has proposed over $53 million in new local taxes which require Congressional approval. If these revenue proposals prove to be unacceptable to the Congress, I do not believe that the District's budget should be balanced solely by a slash in expenditure requests. I am sure that a more suitable resolution of issues can be arrived at through minor expenditure adjustments and consideration of other revenue sources.

Last year the Congress completed appropriation action on the District's annual budget request prior to enactment of supporting D.C. revenue legislation. Because of the need to balance expenditure requests with available revenues, the result of this Congressional timing was that the D.C. appropriation requests were substantially reduced because of the lack of needed revenues. This is neither an effective nor an efficient way to review the city's fiscal requirements, and I urge that the Congress act promptly on the D.C. revenue proposals prior to the final appropriation action on the fiscal year 1972 D.C. budget requests.

RICHARD NIXON.

APRIL 19, 1971.

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## 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. 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

## TRIBUTES TO SENATOR SAM J. ERVIN, JR., AND HIS SUBCOMMITTEE HEARINGS ON GOVERNMENT AND PRIVACY

Mr. ALLEN. Mr. President, for the first time in our Nation's history, Congress has learned of efforts by officials in the Defense Department to spy on the activities of ordinary citizens. In recent hearings before his Constitutional Rights Subcommittee, the chairman, the distinguished Senator from North Carolina (Mr. ERVIN), has made a courageous effort to publicize and reverse this serious and dangerous departure by the military from its traditional jurisdiction.

By his subcommittee hearings illustrating a Federal bureaucracy running roughshod into the private lives of our citizens for its own unmonitored purposes, Senator ERVIN has touched a sensitive nerve which has outraged Americans of all political persuasions. And his hearings are a testament to what I believe is Senator ERVIN's principal philosophy on government: People have a right to be left alone from unnecessary interference into their lives by the Federal Government.

Senator ERVIN's hearings made it clear that Congress is not interested in denying the Government the right to collect information it needs for legitimate purposes, including the enforcement of the law. But the hearings disclosed the widespread existence in the military of the indiscreet and indiscriminate gathering and use of such information on the lives of ordinary citizens. Senator ERVIN passionately believes that this governmental snooping must be curbed in this country because, as he says:

> When people fear surveillance, whether it exists or not, when they grow afraid to speak their minds and hearts freely to their government or anyone else, then we shall cease to be a free society.

Although Senator ERVIN plans legislation to deal with the problems of Government and privacy, his hearings served the initial purpose of sensitizing, through the press, the American people to the intrusion into their lives of a massive Federal bureaucracy. Mr. President, in order that the Senate have the benefit of many of these significant news articles and editorials, I ask unanimous consent that the editorials entitled "Senator Ervin's Hearings" and the "Reactions to the Privacy Problem," published in the Washington Post; the articles entitled "When We Get All the Data in One Place," published in The New York Times; and "The Congress Examines a Case of 'Data-Banking Run Wild'" published in the Washington Star; and "Conservative Libertarian," published in Time magazine, be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the items were ordered to be printed in the RECORD, as follows:

SENATOR ERVIN'S HEARINGS

The hearings on invasion of privacy conducted last week, and due to be continued this week, by the Senate Judiciary Subcommittee on Constitutional Rights afford a fine example of how useful a congressional investigating body can be in exposing and exploring a public problem. The subcommittee has not attempted to prosecute or pillory individuals; it has not pretended that it was a court or sought to punish by publicity people who could not be punished by due process of law. Under the chairmanship of Sen. Sam Ervin, the subcommittee seems to be observing the same high standards and the same concern for individual liberty it had in its early years under the late Tom Hennings.

Government snooping is an ancient evil. It is an evil compounded now by the development of mechanical memories—data banks, as they are called—which squirrel away and interrelate bits and pieces, globules and whispers, of information, some of it accurate, some of it mistaken, ready to be resurrected, perhaps entirely out of context, at any moment in the future. The danger in this was summed up well enough in testimony before the subcommittee by Burt Neuborne for the American Civil Liberties Union: "The wedding of sophisticated information-gathering techniques with computerized information storage and dissemination systems has created, for the first time, a very real danger that the sense of privacy which has traditionally insulated Americans against the fear of state encroachment will be destroyed and be replaced, instead, by a pervasive sense of being watched. The emergence of such a police state mentality could mean the destruction of our libertarian heritage."

The glimpses that have been allowed the public of some of the unchecked "raw files" amassed by the FBI and by the House Committee on Un-American Activities afford warning of how much misleading trivia, how much venomous mendacity can be collected by indiscriminate encouragement of unverified allegations—not even subjected to denial or refutation by the accused. And even the kernels of truth in such dossiers may be deceptive when reviewed in an altered climate of opinion. Worst of all, perhaps, the mechanical memories deny the possibility of redemption—or of what is more human, forgetfulness and forgiveness. "It is clear," Senator Ervin himself remarked in a recent speech about invasions of privacy, "that in our national quest for technological efficiency, we may have so hemmed our individual lives with yesterday's errors that we may yet foreclose the chance to start anew in our society." Most of us at one time or another have said or done things which we may legitimately hope will never be recalled.

Senator Ervin sees the growing pervasiveness of government surveillance and intelligence gathering, the growing compilation of dossiers made menacing by computerized recall as invasions of privacy which may have two evil consequences. One of these consequences, as he sees them, is a threat to the development of human potentialities, a deprivation of "freedom to be an individual, to express his personality." The other is that "the free exchange in the market-place of ideas, so essential to our form of government, must certainly be limited when citizens know their demonstrations or their letters or expressions of complaint may make them objects 'of interest' to government." Senator Ervin wants to counter these threats through a protection of privacy by law.

This is a wonderfully becoming and appropriate concern for a congressional investigating committee. How useful the Committee on Un-American Activities could have been if instead of sniffing everywhere for subversion—as though the American people couldn't be counted on for loyalty to their own country—they had discerned and sought to expose the real threats to Americanism arising out of pressures for con-

formity and orthodoxy. The Senate Subcommittee on Constitutional Rights is rendering a real service to the real sources of American security.

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REACTIONS TO THE PRIVACY PROBLEM

What a world of difference there was between the responses given to Senator Sam Ervin's Constitutional Rights Subcommittee by the Department of Health, Education and Welfare on the one hand and by the Departments of Justice and Defense on the other. The subcommittee is grappling with a problem of the most vital concern to the American people—the impact on their privacy and their very sense of individual identity and security that grows out of the proliferation of snooping and surveillance by government agents and the indefinite storing of all the undigested and unverified information they garner in computerized memory banks.

From HEW there came before the subcommittee no less an official than Secretary Elliott L. Richardson himself. He came, apparently, without any purpose of evasion, concealment, buck-passing, pooh-poohing or proclamation of innocence but rather with a shared sense of the importance and relevance of the subcommittee's agenda. Right out loud in a crowded hearing room, the secretary said simply that the nation "must develop the means of controlling the potential for harm inherent" in the data banks with all their compilation of information and misinformation. "We may," he acknowledged, "need to consider affirmative regulation of this technology if present judicial processes prove inadequate in protecting our privacy."

This is the response of a man concerned not alone for maintenance of the power and prerogatives in his own satrapy but concerned also for the rights and welfare of the public he serves. His concern is an altogether proper one for the head of a department that embraces the Social Security system which has, in some respects, reduced every American to an integer. HEW, as Senator Ervin remarked, "probably maintains more personal data on individuals than any other federal department." Never mind that its purposes are beneficient. Its potentialities have seeds of malignancy which it would be folly to ignore.

The Department of Justice—mind you, the department which above all others is supposed to protect the liberties and immunities of Americans—sent an Assistant Attorney General to the subcommittee last week and had him announce haughtily that Justice "will vigorously oppose any legislation" that might impair the government's power to pry into the private lives of citizens. No audible or visible anxiety of any kind that such endeavors to promote national security might ruinously undermine the personal security that has been among the proudest boasts of Americans.

The Defense Department, for its part, has simply given the subcommittee the back of its hand. Its component Department of the Army, you will remember, started Senator Ervin's whole investigation by its arrogant assumption of authority to collect data on anyone suspected by any shavetail of harboring subversive tendencies—including even members of Congress. But now, on the pretext that it is investigating its own home-front intelligence operations, the Pentagon has asserted that it would be "inappropriate" for three Army intelligence generals summoned by the subcommittee to appear before it. Well, at least the Defense Department appears to be in favor of curbing *congressional* inquiry.

Fortunately, Sam Ervin is not a man likely to be easily snowed or overawed by legal brass in or out of uniform. He has a major problem to solve. Certainly government investigation and recordkeeping have valuable uses. But they must be used, like other instrumentalities of law and order, to enlarge liberty, not consume it.

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SURVEILLANCE: WHEN WE GET ALL THE DATA IN ONE PLACE

(By Richard Halloran)

WASHINGTON.—"Consider the implications of these three propositions," said the legal scholar who is troubled by the assaults on privacy in America today.

"First, Americans are scrutinized, measured, watched, counted and interrogated by more government agencies, law enforcement officials, social scientists and poll takers than at any time in our history."

"Second, probably in no nation on earth is as much individualized information collected, recorded and disseminated as in the United States."

"Third, the information gathering and surveillance activities of the Federal Government have expanded to such an extent that they are becoming a threat to several basic rights of every American—privacy, speech, assembly, association and petition of government."

DOSSIER DICTATORSHIP

Leaning across the witness table and squinting into the glare of television lights, Professor Arthur R. Miller of the University of Michigan Law School told the Senate Subcommittee on Constitutional Rights last week that America is being put "on the pathway toward a dossier dictatorship."

He was the first witness in nine days of scheduled hearings that Senator Sam J. Ervin Jr., Democrat of North Carolina, is holding to determine the extent of government and private spying on American citizens, the degree to which personal information has been collated in computers, and the legislation that might be needed to safeguard the rights of the individual.

From the evidence presented during the first week, it seems patently clear that the scrutiny of the private lives of Americans is pervasive. Professor Miller estimated that there are 10 to 20 dossiers, on the average, for every person in the country.

Much of this personal information is stored in computers, retrieved rapidly and transmitted quickly by electronic devices. Theoretically, that should enable governments and private organizations to serve individual citizens better.

But, as witnesses testified last week, the abuses are frightening. Inaccurate and unrefuted derogatory information is disgorged, citizens are turned down for jobs or insurance or loans. Worse, they have been blackmailed or defamed or have suffered reprisals.

Moreover, the collection of political information by a dozen government agencies has subjected citizens to what several witnesses called the "chilling effect." Just the idea that somebody is watching can make a citizen hesitate to attend a political rally, infringing upon his rights.

The number of dossiers on one person alone can be seen in the case of a rather typical citizen who might be called Robert Hardy. Mr. Hardy is 40, married with three children, has a middle income, lives in the suburbs, holds political views that range from moderately liberal to moderately conservative, and votes all over the lot. He has perhaps a bit more formal education than most, has served in the Army, has never been arrested, and has never, to his knowledge, been suspected of disloyalty to the United States.

Mr. Hardy knows that the Federal Government, his state and local governments and private organizations have records on him. He speculates that there are more than 40, some containing cursory information, some very detailed.

THE FEDERAL RECORDS

In the Federal Government, the Civil Service Commission has a file compiled from a job application and the results of a civil service exam. The Army has at least two records—a personnel file and a security file that rests in the Army investigative records repository at Fort Holabird, Md. The Veterans Administration, the Social Security Administration, and the Census Bureau all have dossiers on him. The Internal Revenue Service has his income tax records.

Mr. Hardy has traveled abroad with a passport so the State Department has a dossier on him. The Federal Bureau of Investigation has his fingerprints from Army records.

Mr. Hardy has lived in three states, each of which has income tax files and records of his driver's license and auto tags. Once he was found to be overdue in changing his license plates when he moved from one state to another, so at least one state police department has a file on him.

In the private sector, three universities have fairly full personal files. Mr. Hardy has used four banks and has life, medical, home and auto insurance. He has worked for three employers, each of whom has a full account of his career. Mr. Hardy and his wife have four department store charge accounts and a gasoline credit card, each requiring substantial information about his income. They have had two home mortgages, which have added to his file in a central credit bureau. His doctor has his complete medical history.

Those are the records that Mr. Hardy knows about. He doesn't know if others exist. Nor does he know what is in each file except for the information he has given each organization. He feels that it is entirely conceivable that erroneous or malicious information that he may never know about has got into one or more, as things stand.

To give Mr. Hardy a chance to have some control over all of this information about him, Representative Edward L. Koch, Democrat of New York, and Sen. Birch Bayh, Democrat of Indiana, have introduced bills that would require every government agency to notify the citizen that a record on him is being kept, permit him to correct errors or to refute abusive statements, and forbid the transmission of any information without his permission.

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THE CONGRESS EXAMINES A CASE OF "DATA-BANKING RUN WILD"

(By Martha Angle)

"We'd like to know a little bit about you for our files . . . We'd like to help you learn to help yourself," crooned Simon & Garfunkel a few years ago in their famous ode to Mrs. Robinson."

The problem, a Senate subcommittee was told last week, is that "these days, the federal government would like to know almost everything about you for its files."

Often for the best of motives, virtually every major government agency—from military intelligence to Social Security—is engaged in the most massive collection, storage and exchange of personal data on U.S. citizens in the nation's history.

In fact, testimony indicates, the average American today is the subject of 10 to 20 dossiers, containing the most intimate details of his private life, which are stored in microfilmed files and computerized data banks and swapped freely among agencies.

Led by Sen. J. Ervin Jr., D-N.C., the Judiciary Subcommittee on Constitutional Rights is entering its second week of hearings on the impact all this busy-body activity is having on the privacy and civil liberties of Americans.

On Tuesday, the panel will begin grilling top-level Pentagon officials about the far-flung civilian snooping activities of military intelligence—surveillance practices which

have been the primary focus of the subcommittee's attention so far.

Eight former Army intelligence agents testified at length last week about the Army's surveillance of politicians, civil rights leaders, anti-war activists, extremists of both the left and right, church groups, newspaper reporters, folk singers and thousands of ordinary citizens.

They said some 1,500 agents had, in recent years, infiltrated, photographed, tape-recorded and reported on peace rallies, civil rights marches, welfare rights demonstrations, political conventions, union meetings and other gatherings.

Most of the snooping, the former agents testified, began in earnest after the Detroit riots of 1967 and was ostensibly aimed at helping the Army prepare for civil disturbances it might be called upon to quell.

But, the agents said, the data-collectors rarely distinguished between violent and non-violent activities. "My superiors," one former snooper said, "could not differentiate between the Weathermen faction of Students for a Democratic Society (SDS) and the American Friends Service Committee," a Quaker group.

Not a single witness to date has been able to tell the subcommittee who originally authorized the massive collection of information on the lawful activities of civilians.

And that is one of the principal questions the Ervin subcommittee wants answered when Defense Department witnesses testify this week.

KEYSTONE KOPS

The subcommittee also wants to know what guidelines — if any — governed the snooping program, what happened to the data collected, and what steps have been taken to halt the surveillance and destroy the files on civilians.

At times during last week's hearings, reminiscences of the former agents made the Army's civilian spy program sound like "Keystone Kops" farce.

Quentin L. Burgess, who served with the 116th Military Intelligence Group in Washington, said he and his partner once were assigned to spy on a Halloween party for neighborhood children at a Northeast Washington elementary school—ostensibly because Rufus "Catfish" Mayfield, a local black youth leader the Army was keeping tabs on, had helped procure food for the party.

Laurence F. Lane, a former intelligence specialist at Ft. Carson, Colo., said 53 of 119 participants at a September 1969 peace rally near the base ultimately turned out to be agents from Army, Navy and Air Force intelligence units.

A good many of the agents, Lane said, were busy watching each other, while six helicopters circling overhead to keep an eye on the rally drowned out the speeches his team was trying to tape record.

Ervin, while noting that such episodes "lend great credence" to the old observation that "military intelligence is a contradiction of terms," warned that they should not be allowed to obscure the real significance of what has happened in recent years.

"Full-scale dossiers on thousands of Americans, compendiums, blacklists, computer systems, city books and massive surveillance by the U.S. Army Intelligence Command and the other military services amount to a clear and present danger to First Amendment freedoms," the senator said.

A number of prominent politicians were among the thousands of citizens on whom Army Intelligence maintained dossiers, according to testimony last week.

These included Julius Hobson and Walter Fauntroy, candidates for non-voting District delegate to the House; Sen. Adlai E. Stevenson III, D-Ill.; Rep. Abner Mikva, D-Ill., and Texas State Rep. Curtis M. Graves.

Ervin warned against giving too much attention to this aspect of the snooping.

"Senators, congressmen, state legislators, city aldermen—these are persons whose careers are founded in controversy and politics," he said. "They are the last Americans who would be intimidated by political surveillance.

"The harm comes, rather, when the ordinary citizen feels he cannot engage in political activity without becoming a 'person of interest,' without having his name and photo placed in a file colloquially if not officially labeled 'subversive.'"

The knowledge of such surveillance, or even the fear that it may be taking place, too often may lead the average citizen to refrain from speaking out or engaging in political activity, Ervin said.

The first public revelation of the Army's civilian "monitoring" program came in January 1970 in a Washington Monthly article by Christopher H. Pyle, a former agent who testified last week before the subcommittee.

According to another witness, Edward H. Sohier, the Pentagon's immediate reaction to Pyle's disclosures was to "deny any and all charges, factual or otherwise."

Sohier was a member of a special Pentagon task force created a year ago to handle inquiries about Pyle's articles.

The task group, he testified, engaged in "blatant lying and an unceasing string of misstatements" to members of Congress, the press and even the Army's own general counsel, and "never admitted any more than it absolutely had to."

When the subcommittee finishes its scrutiny of the military intelligence program, it will turn to the more complex problems posed by the sophistical data collection programs of civil law enforcement agencies, the Department of Transportation, Health, Education and Welfare, and other agencies.

MOST UNAWARE

The military snooping, Ervin believes, is a fairly simple case of "data-banking run wild" whose threat to civil liberties is clearly apparent.

"The very difficult problem of reconciling government data collection with individual freedom arises when the collection is authorized by law and when it is used to assist a socially needed program," he said.

Two lawyers and a social scientist addressed this larger issue when the subcommittee hearings first opened, explaining that most Americans are unaware of the degree to which their everyday lives are recorded in the files and computers of government and private industry.

Arthur R. Miller, a professor of law at the University of Michigan and author of the book, "Assault on Privacy," summed up the situation succinctly.

"Whether he knows it or not," Miller said, "each time a citizen files a tax return, applies for life insurance or credit cards, seeks government benefits, or interviews for a job, a dossier is opened under his name and an informational profile on him is sketched."

Everywhere a person goes, Miller added, he leaves electronic tracks on somebody's computer "that can tell a great deal about our activities, movements, habits and associations when collated and analyzed."

One subcommittee member, Sen. Birch Bayh, D-Ind., has already introduced legislation to give each citizen the right to see and correct information about him contained in government data banks.

The legislation would also prohibit an agency from disclosing any information about a citizen without his permission unless it is required to do so by law.

Exceptions to the non-disclosure rule would be made only in cases of national security or criminal prosecutions.

Last year, Congress for the first time enacted a law allowing individuals to have access to financial information about them on file with credit bureaus.

"Subject to the legitimate—and expressly drawn—demands of law enforcement and national security, I believe we should grant the same rights of access in this area as well," Bayh said.

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CONSERVATIVE LIBERTARIAN

At 74, Senator Samuel J. Ervin Jr. looks and sounds like the quintessential Southern Congressman. Jowls drooping and eyebrows cascading, he drawls tall tales about good ole boys back home in hill-country North Carolina. In rambling Senate speeches, he quotes the Bible, Jefferson and Kipling; he opposes most civil rights bill and accuses the Supreme Court of killing the Constitution's meaning by "verbicide." But for all his Claghornian pomp and ceremony, Sam Ervin is no archetypal Southern reactionary. He is in fact one of the Senate's ablest civil libertarians.

As chairman of the Judiciary Subcommittee on Constitutional Rights, Ervin has long taken positions that startle conservatives and liberals alike. Despite his Bible-Belt constituency, he successfully opposed the late Senator Everett Dirksen's proposed amendment that would have allowed voluntary prayers in public schools. "I believe in a wall between church and state so high," says Ervin, "that no one can climb over it." Though a strong law-and-order man, he vainly fought the Nixon Administration's District of Columbia crime bill with its controversial "no-knock" and preventive-detention provisions. He called it "a garbage pail of some of the most repressive, intolerant, unfair and vindictive legislation that the Senate has ever been presented."

DOSSIER DICTATORSHIP

More recently, Ervin has criticized two institutions that most conservatives hold dear: the FBI and the U.S. Army. He accuses both of snooping on Americans in ways that endanger First Amendment freedoms of speech, thought and privacy. "If we are going to be a free society," says Ervin, "the Government is going to have to take some risks; they can't put everyone under surveillance."

Last week Ervin's subcommittee began hearings on his biggest concern to date: how to safeguard the political liberties of U.S. citizens from what one witness called "dossier dictatorship"—the vast files that are now being computerized by assorted snoopers, ranging from credit bureaus to Army agents, who allegedly concentrate their spying on war protesters. Dramatizing his worries about computers, Ervin displayed two props: a 1,245-page Bible and a two-inch-square piece of microfilm, each containing 773,746 words. "Someone remarked that this meant the Constitution could be reduced to the size of a pinhead," he drawled. "I said I thought maybe that was what they had done with it in the Executive Branch because some of those officials could not see it with their naked eyes."

LINGUISTIC ABOMINATION

Ervin has been a wide-eyed lover of law ever since his childhood in Morganton, N.C. (pop. 13,000). As a boy, he hung around the Burke County courthouse watching his lawyer father argue cases dressed in Victorian cutaway tails. After graduating from Harvard Law School ('22), Ervin married his hometown sweetheart, joined his father's law firm, and polished his oratory as a young state legislator. He once quashed a bill that would have outlawed the teaching of evolution in public schools with the objection that "such a resolution serves no good purpose except to absolve monkeys of their responsibility for the human race."

Appointed to the North Carolina Supreme Court in 1948, Judge Ervin rarely missed a chance to write expansive opinions. After a complex appeal contesting an ambiguous will, he blasted the lower-court judge for having "murdered the king's, queen's and everybody else's English by using the monstrous linguistic abomination *and/or*." Pondering conflicting testimony in a manslaughter case, Ervin suggested that truth often comes to the biased witness as "the image of

a rod to the beholder through the water—bent and distorted." North Carolina lawyers still quote Ervin's opinions because, says one, "it gives a brief more status and authority."

As a freshman U.S. Senator in 1954, Ervin thrust himself onto the front pages with a folksy anecdote underlining his contempt for his Communist-hunting Wisconsin colleague Joe McCarthy. According to Ervin, Uncle Ephraim Swink, a sick, arthritic mountaineer, was called upon to testify to his religious experiences at a revival meeting. Uncle Ephraim remained silent. Finally the minister said, "Brother Swink, suppose you tell us what God has done for you." Uncle Ephraim pulled his crippled body from his seat and replied, "Brother, he has mighty nigh ruint me." Said Ervin: "Mr. President, that is about what Senator McCarthy has done to the Senate."

FEAR VERSUS FREEDOM

Now considered the Senate's ranking constitutional expert, Ervin is aghast that proliferating Government data banks are being fed undigested information on merely "potential" lawbreakers. Last week Ervin heard evidence that assorted public and private agencies now keep ten to 20 dossiers on virtually every American. The dossiers often stress political activities, sexual behavior and credit records, and invite misuse by officials as well as employers.

As Ervin sees it, a free country must take the risk that "a man who has never committed a crime may some day commit one." Lacking probable cause for surveillance, he argues, the Government has no right to secretly record anyone's attitudes toward politics, sex or religion. Ervin hopes that his hearings will lead to federal privacy legislation giving Americans a new right to know what information is being kept about them, and to rebut inaccurate data. If such a right is established, Ervin believes that a new federal agency may be needed to enforce it. In any case, he says, snooping must be curbed. "When people fear surveillance, whether it exists or not, when they grow afraid to speak their minds and hearts freely to their Government or anyone else, then we shall cease to be a free society."

## PROCLAMATION BY GOVERNOR OF MAINE RELATING TO AMERICAN PRISONERS OF WAR IN NORTH VIETNAM.

Mrs. SMITH. Mr. President, for myself and on behalf of my colleague from Maine (Mr. MUSKIE), I ask unanimous consent to have printed in the RECORD a proclamation by Hon. Kenneth M. Curtis, Governor of the State of Maine, designating April 28, 1971, as Prisoner of War Day.

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

STATE OF MAINE—PROCLAMATION

Whereas, the Silent Majority Mobilization has designated April 28, 1971, as a national day of support for our American Prisoners of War in the hands of the North Vietnamese; and

Whereas, these men have suffered and continue to suffer pain, imprisonment, deprivation of their rights, prolonged separation from their loved ones, and the peculiar mental and physical anguish which is the unique lot of the prisoner-of-war; and

Whereas, these men have carried out, and continue to carry out their duties to their country in accordance with their principles and pursuant to directions of the American people whom they are defending; and

Whereas, it is entirely just and in accord with humanitarian instincts that we, the American people, remember these men, cherish their contributions to our security, and pray for their safety and their speedy return to their homes and families;

Now, therefore, I, Kenneth M. Curtis, Governor of the State of Maine, do hereby proclaim April 28 1971, as "POW Day" in the State of Maine and urge all citizens to show their respect and concern for these servicemen and to join me in praying for their release.

## NO EVIDENCE OF CONVERSION FROM A WAR TO A PEACETIME ECONOMY

Mr. PROXMIRE. Mr. President, administration claims during the past 2 years that we are undergoing a transition from a war to a peacetime economy are clearly unfounded. While defense outlays were down very slightly last year, new budget authority for national defense in fiscal year 1972 totals $80 billion. I submit that there is nothing peacetime about an $80 billion defense budget. Administration rhetoric of a winding down of the war notwithstanding, the fiscal year 1972 budget, which reflects the real priority decisions that are made by the administration, shows that defense spending will increase rather than decline.

This means that the United States will continue to operate with a war-time level of defense spending. And the transition to a peacetime economy is negated by this high spending level. The 1971 report of the Joint Economic Committee emphatically emphasized that:

If it is the policy of the administration to relieve the unemployment problem by increasing defense spending, the committee is in strong disagreement with that policy.

The committee recommended further that:

In the interests of national security, defense spending should be reduced in fiscal year 1972 substantially below the estimated outlays for fiscal 1971.

The committee feels that if a true and viable transition is to be made to a peacetime economy we must adopt an economic conversion policy that would assist those individuals and communities that are adversely affected by reductions in defense spending. Such a program would include manpower and income support initiatives. These are positive efforts that would cushion economic hardship for workers, and ex-GIs, and would at the same time help restore the economy to a path of healthy growth with reasonable price stability. An innovative conversion policy rather than an increase in defense spending is the true test of a transition from a war to a peacetime economy.

Mr. President, in an extremely well written and thoughtful column in the New York Times of April 14, Mr. Leonard Silk discusses the committee's recommendations on economic conversion. I ask unanimous consent that the article be printed in the RECORD.

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

THE POSTWAR ECONOMY—HOW THE U.S. INVOLVEMENT IN ASIA ENDS WILL AFFECT WHICH COURSE IS TAKEN

(By Leonard S. Silk)

What will be the economic impact of the windup of the Vietnam war? The question has acquired urgency with the announcement by President Nixon that he will reduce American troop strength in Vietnam from 284,000 now to 184,000 by Dec. 1, 1971.

ECONOMIC ANALYSIS

Beyond that date he has announced no timetable—although some Senators assert that he told them he had a definite date in mind. But he has pledged to "end American involvement" in Vietnam and said he expects to be held accountable—presumably on Election Day in 1972—"if I fail." His goal, he says, is "total American withdrawal."

Assuming that Mr. Nixon achieves that goal, will there be a growingly difficult problem of effecting the transition from a wartime to a peacetime economy? The Joint Economic Committee of Congress is highly dubious that there will be any such transition—at least measured in terms of total military expenditures.

Noting that the President had asked for $80.2-billion in budget authority for national defense in fiscal 1972—a $6-billion increase over 1971—both Democratic and Republican members of the Joint Economic Committee stated, "This indicates that the Administration plans to resume the upward trend in defense spending in the near future."

The Committee insisted that "it is difficult to see anything peacetime about an $80-billion national defense budget.

"If it is the policy of the Administration to relieve the unemployment problem by increasing defense spending," the Committee declared, it was "in strong disagreement with that policy." Instead, it calls for reduction in defense spending—"in the interests of national security"—through reform of weapons procurement to eliminate cost overruns, "gold-plating" of weapons, and other programs it considers wasteful.

The Committee calls for an economic conversion program, focused on social objectives, rather than simply converting wartime expenditures into garrison-state defense expenditures for military hardware, as a means of achieving full employment.

There can be no doubt that rapid military build-ups that pour money into an underemployed economy can lift it up to high employment.

But the Vietnam war was superimposed on an economy that was already at full employment. Its impact was brutally inflationary—for two reasons: It increased money incomes and demand beyond the capacity of the economy, and it reduced the human and material resources available to produce goods and services for the private economy. It also helped to undermine the United States balance of payments.

HIGH "OPPORTUNITY COSTS"

War has high "opportunity costs"—that is, the resources devoted to waging the war in Southeast Asia could not be employed to produce socially useful goods.

But the impact of Vietnam on the American economy doubtless goes beyond its physical effect on resources. The Joint Economic Committee holds that the war and the high level of defense spending have contributed to an inflationary psychology.

Although the expectation of inflation, in traditional economic theory, is supposed to lead to an immediate rush of buying, this need not be so; the sluggish behavior of consumers during the past year demonstrates that worry about inflation can have a choking effect on consumer spending that outweighs the allegedly "rational" decisions to buy ahead of price increases.

In fact, consumers may be acting most rationally when they cut their buying because of inflationary expectations. They may decide that price increases of goods they need will outrun their ability to raise their incomes—and hence that they must cut back on their discretionary purchases.

UNEMPLOYMENT FEARED

Further, as inflation pushes up interest rates, it increases the rewards for saving—that is, not spending. And fear of unemployment—a potential result of efforts to fight the inflation—can also impair consumer confidence.

In the judgment of the Joint Economic Committee, "the consumer's confidence will not fully return so long as the debilitating and demoralizing effects of the war in Southeast Asia persist."

Investors react to war-generated inflationary threats in the same way. The sickening plunge of the stock market in the spring of 1970 was a direct reaction to the Cambodian invasion—and to fears of a wider war, more Government spending, bigger deficits and escalating interest rates. The President's campaign to steady the market involved efforts to convince the business community and the public that Cambodia was a limited maneuver designed to shorten, not lengthen, the war.

But will an end to American involvement in the war in Vietnam necessarily produce a great wave of national confidence and euphoria? Mr. Nixon has suggested that, depending on how the war ended, it might instead give way to bitter national recrimination and dissension.

Such a national mood would not only aggravate social and economic tensions at home but hurt United States' relations with other countries. It could intensify existing symptoms of neo-isolationism.

After World War I, the late Professor John Maurice Clark, of Columbia University, one of the greatest American economists, wrote: "In international affairs, the sequel of the war in this country seems to have been an increasingly stubborn insularity, resisting an inescapable trend toward sharing in world affairs. The fact that this resistance is less strong on the Eastern Seaboard may be a mitigating factor, or it may only be a cause for the development of an ill-omened sectionalism between the Eastern Seaboard and the interior."

In his book, "The Costs of the World War to the American People," which has just been reprinted by Augustus M. Kelley, Professor Clark found that America's postwar insularity included "a thoroughly thick-skinned attitude as to what other people think of us." He saw this attitude as actually a defense mechanism.

America sensed that it had lost something of its reputation—and felt this in foreign reactions to the collection of the war debts, to the invasion of other countries by American capital, to intensified American protectionism in trade. "We have not been very actively loved in the past, perhaps," said Professor Clark, "but now we seem to be actively resented, for reasons not difficult to understand."

U.S. BURDENS LIGHTER

This country, he said, had not felt enough of the weight of the war to make it appreciate what others had borne and suffered; even Americans' economic and material burdens were light relative to the nation's strength.

The most important things about the war for America, said Professor Clark, were "the imponderables." Basically, he felt the war had been a calamity, though with some compensation, as men must have from any great experience; but too often we seem to have learned the wrong things. And we might have had better experiences to learn from. Perhaps all we can be sure of is that nothing has remained untouched by the war. Everything that has happened has happened differently because of it."

Professor Clark was writing from the perspective of 1931. How will we see the Vietnam war and its impact on the course of American history from the perspective of 1981? Obviously, much does depend on how and when the war ends, and what we do in its wake.

## WELFARE REFORM—ADDRESS BY PRESIDENT NIXON

Mr. DOLE. Today, at the Republican Governors' Conference, in Williamsburg, Va., President Nixon delivered a thought provoking speech on welfare reform.

I ask unanimous consent the text of his address be printed in the RECORD.

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

TEXT OF AN ADDRESS BY THE PRESIDENT, REPUBLICAN GOVERNORS' CONFERENCE, WILLIAMSBURG, VA.

The last time we were together we talked about revenue sharing. Our seven legislative proposals for revenue sharing have now gone to the Congress, and I would say I am more optimistic about success now than I was then.

Revenue sharing, when it is enacted, will go far toward alleviating the financial burdens of State and local government. But it is hardly enough to make such great efforts to solve these problems on one hand, while on the other we pursue policies which compound the problem. I am speaking of the present disastrous system of public welfare. Rising welfare costs are not only placing heavier and heavier burdens on the Federal budget, they are crushing our States and cities. And they will continue to do so until something is done about it.

What we need is not a tinkering with the present welfare system which would merely relocate the financial disaster areas from the States and cities to Washington. We need an entirely new approach that will reach to the reasons for soaring welfare costs, and not deal simply with the results as we are doing now.

As you know, we have an entirely new approach in this administration's proposal for welfare reform which is before the Congress. I consider it our most urgent legislative proposal, because the welfare problem, allowed to run unchecked, would soon erode the benefits to be gained from reform in other areas. The House of Representatives has recognized its importance by designating it House Resolution number one. And it is going to be White House Priority number one until it is enacted.

We in this administration have urged welfare reform for three years. We discussed it in the 1968 campaign, and the country responded—and I mean the whole country—not just the taxpayer who sees his money going down the drain, but also many of the welfare recipients who see their lives going down the drain.

While we're trying to bring some order into this chaos at the Federal level, some of you have moved on your own at the State level with the same purpose. I want especially to commend Governor Reagan and Governor Rockefeller for their efforts in this area—for biting a bullet the entire country is going to have to bite if we are going to bring the financial—and worse, the human—costs of the present welfare system under control.

The abuses in the system are not only unconscionable, but contagious as well.

It is a system which not only destroys the incentive of those who are on welfare to get off it, but attacks the motivation of those who are not on welfare—the working poor—to stay off.

It is incredible that we have allowed a system of laws under which one person can be penalized for doing an honest day's work and another person can be rewarded for doing nothing. It can happen and does happen under the present system. The person on welfare can often have a higher income than his neighbor who holds a low-paying job. Tragically, these situations often exist in the same neighborhood, side by side in the same apartment houses—and the effect is corrosive. It creates bitterness on the part of the worker. In the end, I suspect, it causes resignation—and we end up with another person on welfare.

At a time when we see all about us the problems of the disintegration of the family, we continue with a system that encourages family disintegration. A man out of work, or one struggling to support his family on a low income, sees that his family can have a higher income on welfare—and yet he is torn by the knowledge that they cannot qualify as long as he is there. So he leaves. His children grow up either entirely without a father, or with a father who sneaks in and out of the house one step ahead of the welfare worker. What conclusion should his children draw about the morality and the compassion and the justness of a system which forces their father to desert them in order to feed them?

The fact is that the welfare establishment and system in the United States is a monumental failure. It makes the taxpayer furious. It makes the welfare recipient bitter, and it inflicts the distillation of all this anger and bitterness on the children who will inherit this land. It is a disgrace to the American spirit.

So I do not advocate broadening welfare. I do not advocate simply refining the system. I advocate a fundamental change of direction.

I do not advocate putting more people on welfare rolls as some have contended—I advocate getting more people off welfare rolls. And the way to get them off is to provide incentives and disincentives which will make them get off—while providing an opportunity for people to recapture the sense of dignity that comes with knowing that what you have, you have earned. I have been guided from the outset by that principle and I reaffirm my commitment to that principle now.

I do not believe in a guaranteed annual income. I do believe in a system which insures that a man is rewarded for working and not penalized, and I think it is a very sensible investment to insure that that reward is there in order to keep people safely out of the reach of welfare.

I advocate a system which will encourage people to take work. And that means whatever work is available. It does not mean the attitude expressed not long ago at a hearing on welfare by a lady who got up and screamed: "Don't talk to us about any of those menial jobs." I am not sure what she considers a menial job but I have probably done quite a few in my lifetime. And I never thought they were demeaning.

If a job puts bread on the table and gives you the satisfaction of providing for your children and lets you look everyone else in the eye, I do not think that is menial. But it is just this attitude that makes others—particularly low-income workers—feel somehow that certain kinds of work are demeaning. Scrubbing floors or emptying bed pans is not enjoyable work, but a lot of people do it—and there is as much dignity in that as there is in any other work to be done in this country—including my own. In the course of reforming the welfare system, we have to re-establish the recognition of that fact.

I do not think we can tolerate a system under which working people can be made to feel like fools by those who will not work. To the contrary, I think those who refuse to register for work and accept work or training should be ineligible for welfare payments, and we have written such a stipulation into our welfare reform proposal.

In addition, we have urged including in this proposal the language of Section 208 of the Social Security Act which clearly defines fraud, and establishes fines and other appropriate criminal punishment for abuses of the new welfare system.

So to those who see our present welfare reform proposal as a simple refinement of the old program, let me say as strongly as I can that this is not the case. We have no intention of measuring the success of this Nation's welfare programs by the money spent and the number of people supported. We are going to measure it by the money saved and the number of people who are given back the incentive and the opportunity to support themselves. We are going to measure it by the dignity it promotes, and not by the dole it provides.

One of the great strengths of America has always been that we believed in the value of work—and we need a system of caring for the poor that rewards and encourages work.

Another great strength of America is that we believe in a helping hand for those in genuine need. The Bible tells us that charity is the greatest virtue—and, by charity it means love. It blesses both the giver and the receiver.

But it is not charity to maintain a system which permits or encourages human beings to let die within themselves the energies, the dignity, and the drive that give meaning and satisfaction to life itself.

It is not charity to bind human beings into a cycle of despair and dependence when with a little courage and a little imagination and a little common sense we can end this cycle.

A long time ago this Nation proudly acquired a reputation as a refuge for the tired and the poor. Those "huddled masses" who sailed into New York Harbor so they might hold their heads up again have their counterparts today in slums all over this Nation—and our task, together, is to provide a system that will help them to raise their heads in pride and dignity—a system fair to the poor, fair to the taxpayer, and true to the spirit of independence that has built America and made it great.

## THE STOL AIRPLANE

Mr. SYMINGTON. Mr. President, in St. Louis we have one of the Nation's outstanding radio stations, KMOX; and each day hundreds of thousands of our citizens listen to the station's able news director, Bob Hardy.

In addition to his nationally known program, "At Your Service," Mr. Hardy editorializes on current subjects. One that created special attention recently had to do with the STOL airplane.

In that connection, despite this Government's having invested over $500 million in an airplane that embraced the STOL concept, the United States still has nothing to show for this investment—no plane, no program.

The other evening Bob Hardy broadcast a thoughtful and perceptive editorial about the increasing importance of this development to our Nation's future. I ask unanimous consent that the editorial be printed in the RECORD.

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

THE STOL AIRPLANE

Currently being bandied about on Capitol Hill is a proposal that would join government and private industry, in a multi-million dollar venture to develop a new short haul transport plane known as STOL, Short Take-off and Landing. And it just may be that this aircraft has some answers to many thus-far-unresolved problems. Take the time problem alone. St. Louis to Chicago in a jetliner is less than an hour. But add on your driving time to the airport, the ride downtown to Chicago, the more-often-than-not runway delays at either or both ends of the flight, and you'll find that you could frequently *drive* it as fast.

There is a good deal of misinformation concerning STOL. Perhaps it might be well to set some things straight. 80 percent of all U.S. airline operations are on intercity fights of 500 miles or less. Standard jetliners need runways of one to two miles in length. Our own Lambert Field has a ten-thousand foot runway. STOL uses about 600 feet in landings, about 500 feet in taking off. And that's the average. Standard jetliners, often held up by heavy usage, can miss schedules, simply because of the density of traffic for one major long runway. STOL on the other hand can avoid that kind of congestion. It could use shorter parallel runways, taxi strips and even aircraft parking areas. The big jets need those distant ramps for parking, embarking passengers, etc. The STOL can use the small, close-in gate ramps. All this at already existing airports. And with STOL, a good deal of the congestion could be eliminated, simply by providing short take-off and landing craft for that 80 percent of all jetliner traffic that would use it.

Another aspect is the potential for STOL-ports closer in that existing airport. Consider the possibility of a STOL-port, let's say right across the river from the Arch, on the E. St. Louis riverfront. Or perhaps near Hall street in the northeast part of St. Louis. Or, if you'd like to consider what *other* cities are doing, Houston is looking at the possibility of a STOL-port atop a parking area; San Francisco, a floating STOL-port and yes, even St. Louis had a study underway for a STOL-port atop Union Station. AIR FACTS magazine says that with such close-to-the customer locations, STOL-ports in the nation's 20 largest cities could serve one fourth of the nation's air traffic. Think what that would do for the overall air-traffic picture.

There's another point to be made: this is not theory, it's possible. McDonnell Douglas' Model 188 STOL carries 64 passengers, has already demonstrated its ability at a number of midwest fields, de Havilland of Canada has sold more than 3000 STOLs, and is currently designing a 48 passenger model.

Engineers say the STOL can be the quietest transport plane ever built, providing less noise than on a major freeway. And it would be a plane built for the existing facility, not a plane needing new, larger facilities.

With so much discussion of a second major airport for St. Louis, perhaps some consideration of STOL . . . which could very well be tomorrow's major craft for short-haul passengers . . . might be in order. Some in Congress seem to think there's future for STOL. Perhaps the continued existence of Lambert Field lies with STOL. And for that matter, maybe that second, major St. Louis area airport—its size and location—should also depend on consideration of STOL.

## IN FAIRNESS TO THE AUTO INDUSTRY

Mr. GRIFFIN. Mr. President, some well-chosen words were used the other day in a column written by Detroit Free Press Columnist Bob Talbert.

I think Bob Talbert's piece merits the attention of Senators and of many others beyond the circulation of the Detroit Free Press.

I ask that it be printed in the RECORD.

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

[From The Detroit Free Press, Apr. 8, 1971]

I SAY WE SHOULD QUIT MAKING AUTO INDUSTRY A WHIPPING BOY

Most of the time I know where I stand. In most "polarizations," I know which side I'm on. I can usually give you a "yes" or "no" with some conviction. Name the issue: war, peanut butter, crime, TV commercials, dope, women's fashions, public education, smoking, Spiro Agnew, young people, tub baths-vs.-showers, who'll win the pennant, etc. I've got definite opinions in all these areas.

I must admit I'm unpredictable. I'm never "right" on "right" about everything. I'm a liberal-conservative-middle-of-the-roader. I swing back and forth like a pendulum, because I don't happen to believe anyone can honestly be one way about all issues. Everything is subject to change, especially in my mind as each new set of circumstances or statistics present themselves.

I'm not very radical about anything, with maybe the exception of cigaret smoking (I'm devoutly against it) and hair (I'm for it with zeal). I'm probably as close to the average Middle American (with a suburbanized, Sanforized, two-car, two-kid, appliance-prone family) as you'll find.

But in the last few months I've found myself in a very funny position. I like both James Roche and Ralph Nader.

There's a current battle cry I find hard to rally behind: "Big business is dead, long live the consumer!" I just can't buy that.

"You are a consumer," I'm told, "and therefore you should join the consumer crusade and make it invincible. Make big business bow down and kow-tow to consumer wishes."

The rhetoric goes on and on. And so does the publicity from Big Business, which would have you believe that a truly independent consumer advocate is still anti-business. I just can't buy that either.

This nation is, at least until 1971, business-oriented, not consumer-oriented. If the 1970s belong to the consumer he's going to have some tough sledding. The American Revolution was a businessman's revolt and if you don't believe it, may I suggest you stop by the Fisher Theater and see an excellent musical called "1776."

I can find no place in history where being for business is bad. It has produced a far better life for consumers than any other system yet tried.

At the moment, Ralph Nader is the only authentic folk hero the consumers have. Yet he's looked upon by Big Business as the enemy. He speaks for millions, the same millions who buy the goods and who elect the congressmen who look down their noses at him.

At the moment, Jim Roche, who runs the biggest business of them all, General Motors, is the folk hero of Big Business. But those same consumer millions, who depend on automobiles as much as Roche, seem determined to make the automobile the whipping boy of the '70s.

The ecologists, the insurance companies, and the mixed-media muck-rakers have labeled the automobile as today's "bad guy." Detroit gets bum-rapped at every turn. And the consumer sits back and says, "Sock it at ol' Detroit. He's as good a target as any."

I sometimes wonder if the critics of the auto industry think that the auto execs don't drive those "unsafe" vehicles? They act like the auto industry glories in highway carnage and contaminated air.

Big Business must get sick and tired of being told it created discrimination, which it didn't, and then being asked to eliminate it. Big Business gets blamed, unfairly, for our cities failure and in the next breath is asked to bail out the dying cities.

I read Action Line daily. I'm like all the other consumers who complain. Defective cars and warranty disputes bother me. Misleading and deceptive advertising is a real irritation. Getting appliances repaired and being overcharged for it bugs me. I can almost predict that everything in my house will soon fall apart or break down, because we'll have been in it three years come June.

But this "crisis in craftsmanship" or "pride in work" is a problem I personally face every day. Some columns are better than others.

Some columns have errors in them that no one catches or corrects. No one but the reader-consumer.

The consumer movement right now is "hot." It's Washington's No. 1 business at the moment. Too bad it's not on the stock market. Even if we had a Department of Consumerism with a hard-nosed Secretary putting the screws to Big Business, it wouldn't bring about instant justice in the marketplace. Would a Secretary of Peace bring about peace tomorrow? Same thing.

Human beings aren't perfect, but we are improveable, and so are the conditions under which we work and live. Human problems are seldom solved, but are often improved. Jim Roche and Ralph Nader are a lot closer to each other than people will let them be. Wait and see.

## BIPARTISAN AGREEMENT ON INTERNATIONAL ECONOMIC ISSUES

Mr. PROXMIRE. Mr. President, in its 1971 Joint Economic Report on the President's Economic Report, the Joint Economic Committee has presented bipartisan views of agreement on international economic issues. This continues a tradition of essential agreement among members of the Committee on foreign economic policy. This year's report stressed that foreign economic policy should be dealt with in tandem when domestic policy decisions are made. One of the major recommendations of the joint views states that:

> The external and internal economic policy goals of the United States should be regarded as being synonymous—the maintenance of full employment and price stability.

The report goes on to emphasize that if the goals of the Employment Act can be achieved that this will also have a salutary effect on the balance of payments:

> If these goals can be achieved, the balance-of-payments position of the United States will be strengthened; but if we fail to realize these joint objectives, a progressive deterioration in our external position will compound domestic problems.

An editorial published in the Wall Street Journal on April 13 called domestic and foreign economic policy two sides of the same coin. This is certainly an apt description. For if the American economy can be restored to a path of normal growth with reasonable price stability, then both the balance of payments will be improved and the international position of the dollar will be strengthened.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD:

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

[From the Wall Street Journal, Apr. 13, 1971]

TWO SIDES OF THE SAME COIN

In an unusual display of unanimity, Democratic and Republican members of the Joint Congressional Economic Committee have endorsed a statement on the balance of payments and other international economic issues. The statement could hardly have come at a better time.

A number of leading economists recently have urged that the U.S. treat its long-running payments deficit with "benign neglect." Although there's no indication that such a policy has as yet become official, it's not surprising that some European officials think that it may.

After all, the arguments for a passive payments policy do possess a certain logic. The U.S. has run a deficit nearly every year for two decades, and the world monetary system somehow has not come unglued. Foreigners have continued to accumulate dollars, even if they haven't always been happy about the process.

"Benign neglect," moreover, would call for removal of the various controls the U.S. has placed on the outflow of capital. The controls, which were supposed to be short-term expedients, are now cutting the return flow of investment earnings and thus are, at least to some extent, self-defeating.

Perhaps the chief argument advanced for a passive policy, however, is that the U.S. must look first to its domestic economy. Foreign trade plays so small a role in total American business, the reasoning runs that international considerations cannot be allowed to determine governmental financial policy.

One answer to this argument is that the U.S., like it or not, is far and away the largest and most powerful nation in the free world. Whatever the domestic importance of U.S. foreign commerce, the nation has international responsibilities.

But the best answer, and the one the Economic Committee stresses, is that good domestic economic policy and good international economic policy should be only two sides of the same coin. "A reasonable rate of growth and stable prices," the committee says, "are the greatest contributions that American economic policymakers can make to the rest of the world as well as to our own citizens."

The U.S. dollar is central to the world monetary system, and it's likely to continue so for the foreseeable future. It's the currency against which other currencies are measured, and other nations would appreciate a more solid yardstick. Since they hold growing amounts of dollars, they have a large stake in the dollar's value.

U.S. inflation has contributed to the payments deficits, having made American exports relatively more expensive and imports relatively cheaper. In the last half of the 1960s, the overheated U.S. economy also generated a demand for goods that could not be entirely satisfied domestically, and thus helped to increase imports.

It should be self-evident that greater price stability would have purely domestic benefits, allowing businessmen and consumers to plan their futures with more assurance. And a healthy U.S. economy, growing at a steady pace, contributes to the economic health of the free world.

It will be easier for the U.S. to pursue responsible financial policies at home if it continues to reduce its military presence abroad. This accords with the Nixon doctrine, and it certainly would help the balance of payments. As the U.S. lowers its profile overseas, it can and should urge other nations to do more for their own defenses.

The U.S. cannot straighten out everything by itself. At the moment there's no doubt that some foreign currencies are overvalued in relation to the dollar. If the countries involved insist on retaining the current exchange rates, under the fixed system that prevails, they would spur their own exports and curb imports. In the process they will make it all but impossible for the U.S. to end its payments deficits.

Greater exchange rate flexibility thus could help to ease the payments problem. But the key point, as the Economic Committee says, is that "the external and internal economic policy goals of the United States should be regarded as being synonymous."

## PRAYER IN OUR SCHOOLS

Mr. SCOTT. Mr. President, an editorial published recently in the Sun-Gazette, of Williamsport, Pa., again points out the need for a constitutional amendment allowing prayer and Bible reading in our public schools.

One fact I am pleased to note at this time is that the number of Senators who have joined me in sponsoring this proposed constitutional amendment has risen from the original 29 to 43.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Sun-Gazette (Williamsport, Pa.), Mar. 17, 1971]

WE NEED SCOTT'S AMENDMENT

Since the Third U.S. Circuit Court of Appeals has tightened the ban on Bible and prayer readings in public schools, there is a greater need than ever for the constitutional amendment specifically permitting such activities which Pennsylvania Senator Hugh Scott and 29 of his colleagues are backing in Congress.

The federal court announced on March 4 that the Albert Gallatin School District in Fayette County is in violation of the law because its students are voluntarily engaging in devotional periods in the classroom.

Here is the sweeping language of the court: "Neither the fact that the participation by the students in the program is 'voluntary', nor the fact that the program may be denominationally neutral is of constitutional moment when the establishment clause (of the First Amendment) is involved."

So if the majority is to have any rights in this matter, it will have to change the Constitution as Senator Scott proposes to do.

## UNION PACIFIC RAILROAD IN WYOMING EXCLUDED FROM RAILPAX ROUTES

Mr. McGEE. Mr. President, the people of Wyoming were deeply disturbed, as was I, when the Railpax Corporation announced its routes for the National Railroad Passenger System last month. My constituents are at a loss to understand what logic the incorporators used in excluding the Union Pacific Railroad route from Omaha to Cheyenne, west across southern Wyoming, and onward to the west coast.

Therefore, I ask unanimous consent to have printed in the RECORD several editorials published in Wyoming newspapers concerning the Railpax Corporation's announcement. The editorials express the feelings of the people of my State.

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

[From the Wyoming State Tribune, Mar. 20, 1971]

ACROSS COUNTRY ON A BUNCH OF SOUR GRAPES

About Railpax. As Charlie Brown would say, "Who needs it?"

But first off, we will apologize to Senator McGee for the unkind things said about him when he returned from his African junket and immediately announced that Wyoming wouldn't get Railpax. At the time we thought he must have a faulty crystal ball. But there wasn't anything wrong with it at all.

Secondly, the decision by the directors of the National Rail Passenger Service Corp. to route the Railpax system through a long, looping route into southern Colorado, up the Royal Gorge, across Tennessee Pass and down the Colorado River through Grand Junction and Salt Lake City to the West Coast is . . . uh, well, to be charitable and

kindly about the matter, it is unbelievable. Also iodiotic. Also stupid. To say nothing of short-sighted.

For some reason or other it is difficult to be serious about this matter even in the cold, grim dawn of realization that these people have made the decision that was announced Friday.

Talk about a slow boat to China! Talk about driving to Laramie in low gear! This one wins the prize, hands down, for monumental something or other.

One wonders what the great builder of the Union Pacific. Maj. Gen. Grenville Dodge, or his tough tracklayers, the Brothers Casement, would have thought about all this. They probably would have laid the Railpax directors end-to-end, joined 'em up with fishplates, strung 'em over a few ties and if there had been room, run their famous locomotive, the General Sherman, back and forth across them a few times.

There is no point reviewing all the issues in this case. The representatives of this state have presented their case thoroughly; there is nothing that has been overlooked or undone in seeking to convince the Railpax people that the route should have come this way.

Probably the handwriting was on the wall when it was revealed that the route was to go from Chicago to Denver and then if—and the if, it now can be seen, was flimsier than thought here—if Wyoming would be included in the route, the trains would come up from Denver to Cheyenne and from here westward across southern Wyoming to Ogden.

That really didn't make much sense, but it made a lot more sense than the one running the trains down through southern Colorado and then across the Great Divide. Scenery presumably is the basis of this route but if this railroad passenger service is to be based purely on an amusement basis, everybody ought to save his money, take a jet to the L.A. Airport, and go out to Disneyland and ride a real entertainment train.

Incidentally, while they were about it, why didn't the Railpax geniuses route their passenger service on down from Pueblo into El Paso, Juarez, El Paso and los Estados Unidos de Mexico? That's the way the Denver & Rio Grande's founder, Gen. William J. Palmer, intended it. That would have been a real dandy tourist route.

It was our original concept of this misbegotten undertaking that what the Railpax people, and the government at the top, really wanted was to provide the traveling public with a real, practicable, working alternative to grinding across the country in the family car, or doing it jet-style in a matter of minutes. But apparently not. Railpax must be designed for something else, akin to a family outing on a Sunday afternoon, if families do those things anymore, which we doubt.

The Railpax plan makes just about as much sense as tolling a rowboat up the South Platte River to get from Omaha to Denver. It ignores history, geography, present-day transportation needs; the history part being the building of the transcontinental railroad—in a time, remember, when rail travel was the only efficient and effective means of getting places on land—across this country, and geography taking into consideration the problems of crossing the mountain massif formed by the Continental Divide west of Denver.

Crocker's and Huntington's tracklaying teams had to go through the Sierras east of Sacramento and west of Reno in the late 1860s because there was no other way to go. But Dodge and the U.P. builders didn't have to buck the mighty mountains, they went around them; or better, they went in a more or less straight line from Omaha to Cheyenne and on to Ogden and Promontory Point without deviating to go through the mountains. This was an alternative to a slightly more bowed line from Julesburg through Fort Collins and north across the Laramie plain, which they rejected.

But in today's advanced age, our great rail planners can't think this far ahead. They made work out of it. Because of this we think Railpax will fail unless it changes its plan, and if it does, it ought to run this line from Chicago to Omaha to North Platte to Cheyenne, the way it always has been run and the only way it makes sense.

If this be sour grapes, we like 'em. Have a bunch.

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[From Casper (Wyo.) Star-Tribune, Mar. 22, 1971]

UNFAIRNESS OF RAILPAX DECISION

It was disappointing, but—as Sen. Cliff Hansen has stated—predictably so that the Railpax system would bypass Wyoming. There is substantial evidence that the Wyoming route would be better to Salt Lake City than from Denver. Gov. Stan Hathaway, expressing his resentment, reached the conclusion that Wyoming didn't have enough political clout.

This is not, of course, to be taken as meaning that we do not have able members of the Senate and House, but Wyoming is a small state population-wise, and its counsels are not always heard in Washington with the most telling effect.

There are five other states besides Wyoming which may have been bypassed in the program of the National Railroad Passenger Corp., which is subsidized by the taxpayers of these states as well as others. The states which were not to be included are Wyoming, South Dakota, Idaho, Vermont, New Hampshire and Maine.

At this writing we do not have the full determination regarding the other five states, so that any conclusion should be held in abeyance. Regardless of whether they are omitted or included, there is merit in the legislation proposed that all 48 contiguous states should benefit by the establishment of the corporation. If this is not to be done, this is favoritism pure and simple.

All the members of Wyoming's delegation—Senator McGee, Senator Hansen, and Representative Roncalio have supported a Railpax route along the Union Pacific in Wyoming. Both houses of the Wyoming legislature adopted a memorial to that effect. The taxpayers of this country are going to be billed for no inconsiderable amount—a $40 million grant and $300 million in guaranteed loans.

Wyoming people will put up part of that money. They are entitled to a better deal.

There is job protection for the 18 UP passenger service employes in Wyoming. That was explained Saturday by Ed Schafer, general director of public relations for the railroad. This is on the plus side, but it does not cancel out the fact that Wyoming is expected to lose passenger service in the process. More information will be forthcoming at a news conference today. As it stands now, it seems evident that if a Wyoming patron wants to ride the UP to Los Angeles or San Francisco or points east, he is going to have to make connections in Denver rather than at Rawlins.

Some of these details have to be clarified, but the situation is not reassuring.

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[From the Riverton (Wyo.) Ranger, Mar. 22, 1971]

THE FINAL SNUB

The announcement by Railpax that Wyoming is not included in the routing of the national rail passenger service has brought many anguished cries from Wyoming and Washington—and it should.

Not so much because Wyoming's way of life will be changed much by the loss of the present passenger service. Union Pacific has practically abandoned it anyway, Burlington Northern gave up a few years ago, and Chicago Northwestern quit running passenger trains (into Riverton) in 1941.

But the curtailment of passenger service through Wyoming is truly a tragicomedy.

First, it does give UP the convenient excuse for dropping passenger service. They've been trying to do it in two ways for years anyway—pleading with the ICC for abandonment, and doing everything possible to discourage rail travel.

Second, Railpax is but another example of the big getting bigger, and the small smaller. No matter that we're talking dispersal of population, improving the environment et al, let's keep Denver, Omaha, and Salt Lake happy, and to hell with Wyoming. "We're planning to make a national wildlife refuge out of Wyoming anyway and as long as we can get our fast freight across the state and haul the coal out, why do anything that might help Wyoming," end quote.

Third, it is utterly ridiculous to not bring service direct from Chicago to Cheyenne, branch south to Denver, go straight west to San Francisco, Los Angeles, and Portland.

The only trouble with Railpax is that it is passenger service to nowhere, and where before it was almost impossible to ride the train and get there, now it will be actually impossible.

Raise the flag of victory in Omaha, Chicago, and Washington—and fly them at half mast in Wyoming.

Brethren, you have been snubbed and insulted again. Let's don't forget for whom the (train) bell tolls!

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[From the Wyoming Eagle, Mar. 23, 1971]

THE LAST HOPE

Railpax, the semi-government Railroad Passenger corporation created by Congress to operate the nationwide railroad passenger system, has designated four passenger routes which will go to the West Coast.

And not one of them will follow the shorter, faster, logical route from Chicago and Omaha to the West Coast, by way of Cheyenne and Ogden. In fact, not one of the routes will come even close to Wyoming.

Two of the routes will cross Colorado, one will go across northern Montana, and the fourth, from New Orleans to Los Angeles, will swing far south through San Antonio, El Paso and Phoenix.

Here are the four routes to the West Coast, unveiled yesterday by Railpax as part of the nationwide rail passenger network:

Chicago to San Francisco via Sacramento, Reno, Winnemucca, Nev., Salt Lake City, Grand Junction, Denver, Lincoln, Omaha.

Chicago to Seattle via Yakima, Pasco, Spokane, Sand Point, Glacier park, Williston, Minot, Grand Forks, Fargo, Willmar, Minneapolis, and Milwaukee.

Chicago to Los Angeles via Flagstaff, Gallup, Albuquerque, Lajunta, Hutchinson, Newton, Ottawa, Kansas City, Fort Madison and Galesburg.

New Orleans to Los Angeles via Phoenix, Tucson, El Paso, San Antonio, Houston and Beaumont.

This plan, of course, will leave the entire State of Wyoming high and dry, with absolutely no railroad passenger service.

Suppose you, a citizen of Cheyenne, wanted to go Los Angeles, by train—which should be a relatively short, day and night, trip. First, you would have to drive to Denver to catch the train for San Francisco, by way of Grand Junction, Salt Lake City and Reno. Once in San Francisco, and depending upon the schedules, you would have one choice—the Seattle to San Diego train—to get south to Los Angeles.

If your destination happened to be Phoenix, you could follow the same route, but in Los Angeles you would have to catch the Los Angeles to New Orleans train and ride it all the way back to Phoenix. You would have driven to Denver, changed trains at San Francisco and Los Angeles, and traveled nearly three times as far as the distance

from Cheyenne to Phoenix. Of course, you would have had the pleasure of visiting Colorado, Utah, Nevada, Northern California, Southern California and Arizona, en route.

But this is ridiculous. . . .

And, if the situation will be bad for Cheyenne, it will be even worse for other Wyoming cities and towns, including those along the Union Pacific in Southern Wyoming.

Actually, common sense should have dictated that at least one of the passenger lines follow the route from Chicago to Omaha, then straight to the West Coast, by way of North Platte, Cheyenne and Ogden.

Such a route, following Union Pacific's excellent double-track across southern Wyoming, would have been the logical route.

It would have saved both time and distance for persons traveling from the Midwest to the West Coast.

Such a route would have been logical, and in the best interests of the traveling public.

But Railpax has decreed otherwise.

Now, it should be hoped Congress will give speedy approval to measures sponsored by Sens. Gale McGee and Clifford P. Hansen in the Senate and by Congressman Teno Roncalio in the House.

The measures would provide that Railpax must serve at least one major population area in each of the 48 contiguous states—thus insuring at least some passenger service for Wyoming.

Passage of the measures might mean a train would run north from Denver, to Cheyenne, and then westward.

Apparently, that is the last hope for passenger service in Wyoming.

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[From The Wyoming State Tribune, Mar. 24, 1971]

RAILPAX' PECULIAR RATIONALE

One more look at Railpax and then we'll forget it. In the press conference Monday to announce the new railroad passenger hauling system to be operated effective May 1 by the government corporation, the following reasons were cited as basic factors in the routing decisions:

Current train ridership and number of trains per week.

Current operating costs on each route.

Adequacy of other travel modes.

Total population of cities along the route.

The physical characteristics of track and equipment.

Those, according to Railpax Chairman David Kendall, are the five criteria for the decision to pick routes. In at least three of these, a majority, the factors would have favored a route across southern Wyoming to the exclusion of the one chosen from Denver west to Salt Lake City. Those five are current train ridership and number of trains per week, adequacy of other travel modes and physical characteristics of track and equipment.

All three of these clearly favored designation of the Union Pacific's double-tracked mainline from Cheyenne to Ogden, and probably favored designation of the U.P.'s double-tracked mainline from Omaha to Ogden via North Platte, Cheyenne and the other Wyoming cities. And on a route from Omaha to Denver, thence to Cheyenne and Ogden, total population of cities along the route possibly could have become a fourth factor. We have no knowledge of current operating costs of each route but further down in the Railpax press release it is admitted that the route chosen from Denver to Salt Lake via Grand Junction is from two to three hours longer than the one from Denver, Cheyenne and on west over the Union Pacific.

The Railpax announcement also included these rather self-damning statements: "The basic route through Omaha was chosen because it is shorter in miles, faster in running time and contributed more passenger miles annually." Okay, so far, so good. Then the statement adds this: "The segment through Grand Junction and Salt Lake City was chosen because of somewhat greater population, past ridership and market potential." Before this, however, Railpax had said, of the route designation through Ottumwa, Iowa, from Chicago to Omaha: "The route . . . was chosen because it has the fastest running time and best track conditions of the three alternate routes." And, "The Lincoln segment was chosen because it has a greater population. The line has more ridership now than the alternative."

Also: "Two major corridor options are presented between Chicago and Denver with variations for particular segments. The basic route through Omaha was chosen particularly because the Omaha route is shorter and faster than the best alternative through Kansas City; despite greater population along the Kansas City route, the Omaha route contributes more passenger miles annually; the Kansas City alternative will be served by the Chicago-Los Angeles service."

In analyzing the route through Iowa, the directors said a decision was made to by-pass Des Moines and pick a route on the Burlington Northern directly from Galesburg, Ill., to Omaha via Ottumwa because "the Ottumwa segment has the fastest running time because of more double track and 79 miles per hour authorized speed (the Marion segment is slower and the Des Moines segment is more than two hours slower); while population along the Des Moines segment is twice that of the Ottumwa segment (and three times that of the Marion segment), historic ridership has been larger on the Ottumwa segment than on the Des Moines segment; the Des Moines segment track conditions are only fair with a 60-mile per hour maximum authorized speed."

Of the decision to pick Denver-Grand Junction-Salt Lake over Denver-Cheyenne-Ogden, Railpax said: "Of the two route alternatives between Denver and Wells (Nev.), the Grand Junction-Salt Lake City route was chosen principally because of population, and market potential, Although the Cheyenne route is two- three hours faster, the market potential of the Grand Junction segment is seen as much greater than the Cheyenne segment because of outstanding scenery and world-famous ski resorts."

Yet in the five controlling criteria listed by the Railpax directors at the outset nothing at all—absolutely nothing!—was said about "outstanding scenery and world famous ski resorts" and nothing was said about market potential. What the five controlling criteria consisted of was—to repeat—current train ridership and number of trains per week (more on the U.P. than on the Burlington-Rio Grande), current operating costs, adequacy of other travel modes, total population along route and physical characteristics of track and equipment.

It is clear that the Railpax directors went outside the scope of their own self-imposed rules for route designation to pick the Denver-Grand Junction-Salt Lake route over Denver-Cheyenne, etc. Thus it may be ascertained that each situation was fitted to such rules as the directors cared to make for it.

There is no point in arguing the case; we have been had. There is no appeal and no recourse and there is probably no point in fighting the thing. But we don't have to like it and we are not about to.

We will just have to continue to struggle along, doing a slow, but very deep burn. In the meantime, the governor may ponder this rationale, which he asked for in a letter to Railpax Chairman Kendall Monday; it is a most peculiar form of reasoning that Railpax labored under. Most curious.

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## DISENGAGEMENT OF UNITED STATES FROM VIETNAM WAR

Mr. ALLOTT. Mr. President, the Denver Post of April 8 contains an interesting and reflective editorial on President Nixon's April 7 address to the Nation on the next phase of his policy for disengaging the United States from the war in Vietnam.

This balanced judgment from a great and independent newspaper should be of interest to all Senators.

Mr. President, so that all Senators can profit from it, I ask unanimous consent that the editorial be printed in the RECORD.

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

THOUGH VIETNAM FUTURE UNCERTAIN, NIXON KEEPS HIS WORD ON TROOPS

The key words in President Nixon's accounting to the American people this week on the war in Vietnam were these:

"In my campaign for the presidency, I pledged to end American involvement in this war. I am keeping that pledge."

Mr. Nixon was not trying to make a case for greater involvement in the war, or even for involvement itself.

The central fact on which the President focused was that the United States *was* involved, that the escalation of the involvement had been accomplished by the Administrations that preceded his, and that his objective—from which he had not deviated—was to reverse the trend.

When he entered the presidency in 1969, Mr. Nixon pointed out, there were 540,000 American troops in Vietnam. By the first of May he will have brought more than 265,000 of them home.

Further, he pledged to bring another 100,000 home by December 1.

On the basis of the record to date, there is no reason to believe he will not do so—or that he will not have cut the total substantially beyond that during the early part of next year.

True, the President refused to bind himself to have all the American troops out of Vietnam by a specific date—as some of his critics insist he should do.

Mr. Nixon made the point that to do so would be to play into the hands of the Communists—giving them either a bargaining or a military advantage.

This may or may not be so, but it is hardly justification for accusing the President of reneging on his commitment to the American people.

Mr. Nixon obviously hopes that by withdrawing our forces gradually rather than precipitately he will enable the government of South Vietnam to gain the military and political stability either to sustain itself or to make the best possible arrangement in any subsequent negotiations with the North Vietnamese and the National Liberation Front.

This may be a forelorn hope. It may turn out that there is no viable alternative to a government run by the Communists—in which case the United States will have to accept this outcome and the additional time that Mr. Nixon has brought by his phased withdrawal will have been time, and lives, squandered.

But as Mr. Nixon sees it there is still some choice within the framework of American disengagement; a chance that would certainly be dissipated by immediate American withdrawal.

It is a choice that he feels he cannot ignore, even though the risks to Americans, in Vietnamese, and to his own political future are substantial.

His critics have been accusing Mr. Nixon both of blindly ignoring the will of the American people (a large majority of whom clearly want to get out of this mess as soon as possible), and of maneuvering for political opportunity.

The criticism seems to cancel out. He is patiently not doing the "popular" thing with his steady but measured deescalation, and

unless he can sway the electorate his approach will lead to his undoing just as certainly as gradual escalation led to the undoing of Lyndon Johnson.

At the very least, the President showed his understanding of the American character when he said: ". . . we face the choice of ending our involvement in this war on a note of despair or on a note of hope. I believe as Thomas Jefferson did that Americans will always choose hope over despair."

For the sake of the country—and for the sake of the Vietnamese, who deserve a future that is free of the nightmares of the immediate past—we can only hope, just as we can only speculate, that the course Mr. Nixon is following is the right one.

## JOINT RESOLUTION BY MAINE LEGISLATURE RELATING TO BOUNDARY BETWEEN CANADA AND THE UNITED STATES

Mrs. SMITH. Mr. President, for myself and on behalf of my colleague from Maine (Mr. MUSKIE), I ask unanimous consent to have printed in the RECORD a joint resolution of the State of Maine Legislature memorializing Hon. William P. Rogers, Secretary of State, to negotiate by treaty the eastern seaward boundary between Canada and the United States and the responsibilities of each Government with respect to oil spills in the Bay of Fundy.

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

JOINT RESOLUTION

Joint Resolution Memorializing the Honorable William P. Rogers, Secretary of State, to Negotiate by Treaty the Eastern Seaward Boundary between Canada and the United States and the Responsibilities of Each Government with respect to Oil Spills in the Bay of Fundy

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Fifth Legislative Session now assembled, most respectfully represent and petition unto the Secretary of State of the United States, the Honorable William P. Rogers, as follows:

Whereas, the most recent treaty between the United States and Canada with respect to their eastern seaward boundary was executed in 1925; and

Whereas, such treaty extended the terminus of such boundary from the terminus fixed in the 1910 boundary treaty ". . . south 34° 41′ west, for a distance of two thousand three hundred eighty-three meters, through the middle of the Grand Manan Channel, to the High Seas" (44 Stat. 2102); and

Whereas, the location of said boundary seaward beyond the southerly end of Grand Manan Island is vague, indefinite and uncertain due to the wording of the aforementioned 1925 treaty; and

Whereas, the Canadian government has granted oil exploration permits to major oil companies covering territory within 10 miles of the Maine coast; and

Whereas, the litigation, entitled *United States* v. *Maine, et als.*, now pending in the Supreme Court of the United States, may uphold Maine's claim of authority to regulate the development of its offshore natural resources to the edge of the Continental Shelf; and

Whereas, a result favorable to Maine in such litigation, given the present indefinite nature of the United States-Canada eastern seaward boundary, could result in a dispute between Maine and Canada concerning entitlement to the offshore natural resources of the Bay of Fundy; and

Whereas, the oil tanker *Arrow*, bound for a Canadian port, and the oil barge *Dracone*, similarly bound, both foundered off the Maine coast, spilling their cargoes; and

Whereas, there presently exist no well-defined cooperative procedures between the United States and Canadian Governments concerning the cleanup of oil spills in the Bay of Fundy; and

Whereas, the indefinite nature of the United States-Canada eastern seaward boundary could result in a dispute between sovereigns concerning the responsibility for such cleanup, to the detriment of the seashores, marine resources and economy of both countries and the ecology of the Bay of Fundy; and

Whereas, it is necessary and desirable to prevent disputes and international incidents between the United States and Canada regarding the offshore natural resources of the Bay of Fundy, and to preserve the amicable relations and good will which have existed between the United States and the State of Maine, on the one hand, and Canada on the other; now, therefore be it

*Resolved:* That we, your Memorialists, recommend and urge the Honorable William P. Rogers, Secretary of State, to take immediate and appropriate action, by negotiation of a treaty or otherwise, to define with precision the eastern seaward boundary between the United States and Canada, and be it further

*Resolved:* That we likewise recommend and urge the Honorable Secretary Rogers to similarly define the responsibilities of the United States and Canadian Governments with respect to regulating the transport of oil by sea, and the cleanup of oil spills in the Bay of Fundy; and be it further

*Resolved:* That copies of this Memorial, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Honorable Richard M. Nixon, President of the United States, to the Honorable William P. Rogers, Secretary of State of the United States, and to the members of the Maine Congressional Delegation.

## PUBLIC OPINION FAVORS MILITARY SPENDING CUT—SYMPATHIZES WITH POTENTIAL TAXPAYER REVOLT

Mr. PROXMIRE. Mr. President, last week the results of two major public opinion polls—one by the Gallup organization and one by Louis Harris—were made public.

The Gallup poll shows that 50 percent of those interviewed think we are spending too much for the military. Only 11 percent think it is too small, and 31 percent believe the military spending amount is about right.

The Harris poll shows an even more startling result from the American people who traditionally have paid taxes—and high taxes—without more than the usual grumbling. To the question "Can you foresee the time when taxes in this country would reach the point where you would sympathize with a taxpayers' revolt where people would refuse to pay any more taxes unless taxes and spending were reduced, or don't you think you would sympathize with it?" some 69 percent replied that they "Would sympathize."

Spending is too high. Military spending is excessive. Only 2 years ago the Harris poll percentage was 43 to 41 instead of 69 to 17. Congress should take note and take note now.

I ask unanimous consent that the two articles from Sunday's Washington Post be printed in the RECORD.

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

THE GALLUP POLL: 50 PERCENT OF PUBLIC SAYS UNITED STATES SPENDS TOO MUCH ON DEFENSE

(By George Gallup)

PRINCETON, N.J.—Public pressure to cut military spending continues, with 50 per cent of all persons interviewed in a recent nationwide survey saying the United States is spending "too much" for defense and military purposes, compared to 11 per cent who say "too little" and 31 per cent who say the amount being spent is "about right."

Three earlier nationwide surveys conducted during the last year and a half have all shown the public favoring reductions in military spending, with results closely comparable to those reported today.

While little difference is found between the overall national findings reported today and those reported last fall, sharp differences by party affiliation are beginning to emerge. A majority of Democrats in the latest survey (54 per cent) say they would like to see military spending cut, compared to 40 per cent of Republicans. In October, Democrats and Republicans held virtually the same views.

A total of 1,566 persons, 18 and older, were interviewed March 12–14 in more than 300 localities across the nation. This question was asked:

There is much discussion as to the amount of money the government in Washington should spend for national defense and military purposes. How do you feel about this: Do you think we are spending too little, too much, or about the right amount?

[In percent]

| | Too much | Too little | About right | No opinion |
|---|---|---|---|---|
| National | 50 | 11 | 31 | 8 |
| College background | 59 | 12 | 25 | 4 |
| High school | 46 | 11 | 35 | 8 |
| Grade school | 49 | 10 | 26 | 15 |
| East | 56 | 9 | 26 | 9 |
| Midwest | 52 | 6 | 34 | 8 |
| South | 37 | 17 | 36 | 10 |
| West | 55 | 13 | 25 | 7 |
| Republicans | 40 | 12 | 37 | 11 |
| Democrats | 54 | 8 | 31 | 7 |
| Independents | 53 | 14 | 26 | 7 |
| Under 30 | 57 | 10 | 27 | 6 |
| 30 to 49 years | 49 | 11 | 33 | 7 |
| 50 and over | 46 | 11 | 31 | 12 |

THE HARRIS SURVEY: SEVEN OUT OF 10 HAVE SYMPATHY FOR REVOLT OF TAXPAYERS

(By Louis Harris)

A substantial 64 per cent of the American people feel that "taxes have reached the breaking point"—up from 60 per cent last year and 54 per cent in 1969. By a 66-to-27 per cent margin, the public says that federal income taxes are simply "too high."

Nearly 7 out of 10 Americans could sympathize with a "taxpayer's revolt" where "people would refuse to pay any more taxes unless taxes and spending were reduced."

The list of taxpayer grievances covers a wide range of ground:

By an overwhelming 85 to 10 per cent, the public agrees with the statement that "politicians promise tax relief before an election and then do nothing about it when elected."

By 82 to 14 per cent, it agrees that "the big tax burden falls on the little man in this country today."

By 76 to 15 per cent, it feels that "too much tax money is given to people who don't appreciate it."

By 71 to 21 per cent, it believes that "too

much tax money is going into wars and defense."

By 67 to 23 per cent, it says "I resent the way my money is being spent by the government."

So deep is the alienation over taxes that when asked directly whether they could foresee a time when they would sympathize with a "taxpayer's revolt," 69 per cent answered in the affirmative. A cross section of 1529 households was asked in late March:

"Can you foresee the time when taxes in this country would reach the point where you would sympathize with a taxpayer's revolt where people would refuse to pay any more taxes unless taxes and spending were reduced, or don't you think you would sympathize with it?'"

[Percent total public]

| | |
|---|---|
| Would sympathize | 69 |
| Not sympathize | 17 |
| Not sure | 14 |

A measure of the growing intensity of feeling about taxes can be obtained by comparing the current lopsided 69–17 per cent majority who might sympathize with a taxpayer revolt with a 43–41 per cent result on a similar question only two years ago.

Two key targets of taxpayer resentment are spending for the war in Vietnam and for welfare. The public sees both as prime targets for potential budget cutting.

Confidence in government has reached a low point over the past four or five years. The public no longer looks to the government as a credible agent for generating solutions to the problems which beset them. The prevailing mood of New Deal days, when sizable majorities of the public believed that government could accomplish anything, has now reversed almost 180 degrees.

Proponents of the "new economics" view taxes as a leverage instrument to help control either inflation or deflation. In times of rising prices, the argument goes, taxes should be raised as a way of cutting consumer demand which heats up price pressures. In times of deflation, a tax cut will restimulate consumer spending and create economic expansion.

During the recent period of inflation, however, the public has regarded rising taxes as simply one more drain on hard-pressed pocketbooks. Tax cuts that stimulate consumer spending are more popular. To the public, taxes are perceived as one more personal expense rather than as an instrument for guiding an economy beneficial to all.

That is why when asked if taxes had "reached the breaking point," the trend in 1971 has been up:

"As far as you and your family are concerned, do you feel you have reached the breaking point on the amount of taxes you pay, or not?"

[In percent]

| | 1971 | 1970 | 1969 |
|---|---|---|---|
| Reached breaking point | 64 | 60 | 54 |
| Not reached | 25 | 29 | 34 |
| Not sure | 11 | 11 | 12 |

## A PING-PONG THEORY OF HISTORY

Mr. ALLOTT. Mr. President, for those of us not pre-equipped with a ping-pong theory of history, it is very difficult to decipher the real and substantial significance of the recent actions by Communist China.

We all hope that that nation is edging toward more open and civil relations with the world around it.

But one thing seems clear. The chorus of Cassandras who, just a month ago, were morosely but confidently warning that we were on the brink of war with an enraged Communist China, again seem to have been wrong.

Senators will recall at the time of the South Vietnamese incursion into Laos, several distinguished Senators, a few distinguished Presidential candidates and, needless to say, the New York Times, were in a terrible twit about Chou En-lai's visit to Hanoi. Today many of these same people are saying with equal confidence that they know the ping-pong developments are fraught with hopeful significance.

The New York Times, which discerns historic events more frequently than most of us, has led the way in ping-pong punditry by announcing that "historical change for the better" is taking place in relations between the United States and Communist China.

Let us hope that the Times and kindred spirits are correct—more correct than they were a month ago when they all felt that a historical change for the worse was taking place.

## FUNDS FOR LIBRARY SERVICES

Mr. MONDALE Mr. President, I recently received a very thoughtful article from Hannis S. Smith, director of public libraries in the Minnesota Department of Education. Mr. Smith described in depth and detail the need for increased appropriations for the Library Services and Construction Act.

His article includes excellent examples about some of the programs which are funded under this act in Minnesota, such as bookmobile service to Indian reservations.

For the reasons Mr. Smith points out so well, and because valuable services are funded under this act throughout the Nation, I hope we can prevent the administration's proposed reductions in the funding of these programs and provide intead an adequate level of support.

I ask unanimous consent that Mr. Smith's article be printed in the RECORD. I commend it to the attention of Senators.

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

A STATEMENT ON THE NEED FOR EXPANDING RATHER THAN CUTTING APPROPRIATIONS FOR THE LIBRARY SERVICES AND CONSTRUCTION ACT

(By Hannis S. Smith)

My office administers the Library Services and Construction in Minnesota. From its beginnings in the earlier Library Services Act, this program has emphasized establishing public library services for areas without such services and improving services in areas where such services were inadequate. In our state, the areas which were without public library services correspond very closely to counties with high percentages of low-income families. The correlation is one which could be expected, since library service costs money, and adequate library service to widely dispersed populations or to a clientele requiring specialized personnel or materials costs more than service to the healthy, educated, middle class citizenry.

The reason that the LSCA program has been spectacularly successful (and it has been by any known set of objective criteria) is that it has *added* funds to local effort in order to make it possible for the local services to be expanded and improved in ways to make these library services available to, and attractive to, all kinds and conditions of people. These efforts, once made and with their success demonstrated, have stimulated similar efforts in many other areas of our state. We no longer need to "sell" the public library development programs. Instead, we are now having to make the applicant areas "line up" and await their turn at the money.

That is basically why LSCA funds should be expanded rather than cut.

When asked to specify what effect the proposed cut in LSCA appropriations would have on our state-wide program, I think it might shed the most light to cite a few examples of what is being done that could not have been done had we not had the appropriation levels of previous fiscal years, and which we cannot extend to other equally deserving counties unless the appropriations are restored and even enlarged.

We now have bookmobile service to our Indian reservations which we did not have before LSA and LSCA. We have a substantial population on several of these reservations, consisting of people who have had no reason for trusting the white man whom they call "forked tongue." While we cannot undo the mistakes of the past, the public library can help in the effort to make amends for those mistakes. We have learned, largely through the Indians themselves by means of an Indian liaison librarian on the regional library systems staff, that Indians do want and need library services and will use them if those services are made meaningful and acceptable to them. They don't want books which make Indians look foolish, or savage, or primitive, or any of the other steretoyped derogations with which they are all too often faced.

And service to Indians, who are as disadvantaged as any people I know about, costs just a bit more than service to middle-class America. This is easy to explain. The least costly of all public library service is to the patron who comes in the library knowing what kind of book he wants to read. He is well enough educated or experienced neither to need or even want help. He chooses his armful, the clerk at the desk makes the record, and he leaves. The only expensive professional time he has consumed is indirectly involved; the selection and cataloging of the books, and the general direction and administration of the library. On the other hand, whenever services must be taken to a person where he lives because of physical handicaps, travel distances, or conditions of confinement, they cost more. When services need special attention because of the nature of the clientele, they also cost more. Service to Indians requires, for example, careful attention to materials as was mentioned earlier. Not infrequently the acceptable materials are more difficult to locate and more difficult to purchase because they are outside the established channels of publishing communication.

The current emphasis on the Right to Read is most welcome to all librarians everywhere. But one of the things that puzzles us right now is that this emphasis has been accompanied by a recommended diminishing of funds for a program which provides the raw materials for the act of reading! The Right to Read is meaningless to the man who does not have anything to read. And the Right to Read is indivisible. The laborer and the businessman have the right to read the information which each needs for his specific purpose. The housewife and the career woman may differ in some of their reading interests and be alike in others, but each also has the right to find out what she needs to know through the general act of reading about it.

In much of this country, the public library is the only agency which consistently stocks a supply of the current, serious, published materials of our civilization. The corner

paper-back rack has a general supply of the popular and a little of the serious, but not much of the latter. Few good book stores are found outside the downtown or affluent neighborhoods for metropolitan centers.

If the average American is going to learn to read functionally, that is to command the skill of reading so that he makes use of what he reads, then exercise it frequently enough to keep this skill sharp, he must have regular access to quality printed materials and related audio-visual illustrative and illuminating materials which relate to his interests and which fit his needs. Also we know that a home where the parents read and where books and magazines are common sights around the house prepares the child to be a compelent consumer of recorded knowledge. This means the family must have access to good pre-school materials. They are infrequently available except from a public library.

I hope all of this demonstrates clearly that money for public library establishment and development is an important element in the programs for the Right to Read, services to the disadvantaged and to families with low incomes, and to the isolated and culturally deprived. The editor of the Red Lake Falls *Gazette* sort of sums things up in the attached editorial.

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[From the Red Lake Falls (Minn.) Gazette, Feb. 15, 1971]

MONEY WELL SPENT

At a time when the mention of increased expenditures of tax money is about as popular as snowbanks in a citrus grove, the fact that the regional library, which serves Red Lake, Pennington and Roseau Counties, will make increased expenditures this year may be eyed somewhat warily.

The year's budget, $107,800, is up about $10,500 from 1970's budget of $97,362. And since the operation is almost entirely tax-supported, an increase in budget reflects an increase in taxes, whether state, federal, or local.

However, before condemning the increased library budget in a blanket indictment of all bureaucratic enterprise, we should perhaps find out where the money is to be spent. Expenditures for new books and library materials will increase from $26,892 last year to $37,600. Projected salary and wage payment will total $56,892, up from $44,400 last year. Obviously, expenditures in some other areas have been cut back to hold the line at the $10,500 increase.

What is being offered for the increase? According to information contained in a guide published by the regional library, ambitions for the coming year include greater branch library development (which involves the local library, ) a "books by mail" program which will enable patrons in outlying areas to return books more easily, direct mailings of library news to inform patrons of new materials or facilities available at the library, acquisition of a collection of record albums to be loaned to patrons, and more comprehensive planning with other area and regional libraries.

We say that the benefits derived from these proposed projects would balance the increased burden on the taxpayers, if the taxpayers would make the effort to fully utilize the facilities provided. The library contains a wealth of information and entertainment available to anyone who asks for it.

And, it's really kind of hard to imagine a country going broke because it bought too many libraries.

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## COOPERATIVE AGREEMENT BETWEEN EASTERN AIRLINES AND ITS PILOTS

Mr. BROOKE. Mr. President, the American airline industry is at a crossroads. Capital and labor costs, increased dollar outlay because of safety and pollution legislation, together with protean travel patterns are problems which here and now require immediate and undivided attention. Commercial aviation is very susceptible to any general downturn in the economy. And when business and personal income are in a period of lagging growth, airline revenues are most vulnerable. For example, businessmen travel less frequently in order to reduce costs. Vacationers choose places closer to home, postponing European or transcontinental trips. The result has been a period of sustained losses and great economic uncertainty for almost all our leading airlines. In turn, widespread layoffs and belt tightening of all kinds have been invoked to reduce losses and spur recovery.

It is significant that one large carrier, Eastern Airlines, has tried a novel approach to avoiding layoffs and raising needed revenues. It is a cooperative effort featuring encouraging teamwork between management and company employees. This airline, its pilots, and management merit considerable praise for their efforts. I urge other companies in other industries who are having similar problems to observe and emulate Eastern's esprit and teamwork. If our economy is to move out of this downturn the conventional anodynes alone will not suffice. Management and workers together must aggressively seek new ways to move the economy back toward sustained growth and recovery. Labor and management need not and indeed, must not be constant adversaries. They should work together to anticipate and cure the problems that concern them both. I hope that this new chapter in labor management teamwork will be the beginning of a long volume to similar cooperation and good faith in American labor-management relations.

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:

EASTERN PILOTS OFFER MORE FLYING IN MOVE TO BOOST COMPANY REVENUE

WASHINGTON, April 12, 1971.—The 3,661 pilots of Eastern Airlines have volunteered to provide the company with extra flying time for the remainder of 1971, a move that will significantly improve revenue generating potential and assist the company in avoiding employee layoffs.

The action was announced here today by Capt. Thomas Crane, chairman of Eastern's master executive council of the Air Line Pilots Assn. Also present was Col. Frank Borman. senior vice president—operations group for Eastern.

Under the program, pilots may volunteer to fly 20 hours above their normal contract requirements between now and year's end. This will be at straight time rates with payment deferred until December 31, 1971.

Assuming a normal 3-man crew complement, this will provide Eastern with potentially more than 26,500 additional flying hours this year from its existing pilot contingent. Such extra time will greatly assist marketing people in quick confirmation of charter requests, and will expand the airline's ability to gain revenue with extra-section flights at peak travel periods.

In addition, Eastern's pilots may coordinate with the company in cancelling up to 50 per cent of their 1971 vacation time, deferring this half of their vacations until 1972.

"It is especially significant that this volunteer program was worked out and proposed by the line pilots," said Captain Crane. "It is intended to give the company added capability to cover charter flying or extra sections which may be produced on short notice by the sales employees of Eastern."

Colonel Borman expressed Eastern's pleasure and appreciation for the action, noting that it came at a time when the company is soliciting the assistance of its employees in weathering the economic difficulties of the industry.

"This generous program by the pilots demonstrates their recognition of the need for teamwork at this time, and their genuine concern for the company's welfare," Colonel Borman said. "Eastern's management heartily congratulates them.

"This action will be of great assistance in our current campaign to produce added revenue, rather than succumb to economic pressures with a program of service reductions and furloughs to cut expenses," he added.

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## STATE OIL AND GAS CONSERVATION LAWS

Mr. HANSEN. Mr. President, for some 2 years now, I have engaged in a running debate with certain of the President's White House advisers over administration oil and gas policy and State market demand and proration laws, or in simpler terms, the State statutes under which oil and gas production can be regulated for the prevention of waste and for the protection of the correlative rights of those who own the oil and gas.

Since these laws were first enacted by the States, and since the approval by Congress of the Interstate Oil Compact Commission and ratification of the laws by the U.S. Supreme Court, many billions of barrels of oil and trillions of cubic feet of natural gas have been produced and conserved that otherwise would have been wasted. In fact, it often was wasted during the hectic days of the early oil booms and the chaos of unrestricted drilling and production in the huge east Texas field before order could be restored.

But there are still those who insist that prorationing is a price-fixing device rather than a conservation measure.

I have presented before in this Chamber what I consider to be logical and reasonable rationales for the existence and benefits of these State proration and conservation practices and I have also communicated them to some of the President's advisers who continue to attack the basis for these laws.

Last year, Mr. Richard C. Byrd, general counsel of the Interstate Oil Compact Commission, testified before the Subcommittee on Mines and Mining of the House Interior Committee. In my opinion, Mr. Byrd did an excellent job of explaining State prorationing of oil and gas production, views endorsed by the 33 Governor members of the Commission. He cited U.S. Supreme Court decisions in which the Court found no evidence that proration orders were for the purpose of fixing prices, but rather, were for the purpose of the statutes; the pre-

vention of waste and the protection of correlative rights.

Although I conveyed copies of Mr. Byrd's statement to those who continued to attack the market demand prorationing concept, it apparently made little impression.

In a recent speech in Dallas, Mr. Byron Tunnell, chairman of the Texas Railroad Commission, responded again to the continued criticism of Texas conservation laws—we also have them in Wyoming—still voiced by certain influential members of the administration.

I have addressed copies of Mr. Tunnell's most excellent speech to those who I hope may bring such matters to the President's attention. Also, I ask unanimous consent that Mr. Tunnell's remarks be printed in the RECORD so that the rationale in behalf of the market-demand law may be more clearly understood by the Senate.

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

TEXAS LOOKS AHEAD

I was requested to furnish a title for this talk several months ago. Since I had no idea what I would speak on, for the want of a better title, I selected the provocative title, "Texas Looks Ahead." Now that I have pondered it, it seems incomplete. "Texas Looks Ahead." How?—happily?—boldly? optimistically?—with uncertainty?—with dread?—with confidence?

If I addressed myself to such speculation, I would be trespassing on the field of the economists or the horoscope experts. At the Railroad Commission, we are equipped with neither. We are equipped with a set of statutes which through the years the Legislature has given us to follow; we have a number of basic regulations which have been implemented to discharge the responsibilities set forth in the law. We have about 150 people, excluding clerical help, to supervise the regulation of some 194,000 oil wells and 24,000 gas wells in the production, storage and transportation of about 3.4 million barrels of oil and some 23 billion cubic feet of gas daily.

Our policies are subject to the ratification of the people of Texas every two years, when one of the Commissioners must run for re-election, *and* the Texas Legislature, *and* the whole judicial system from justice of the peace through the U.S. Supreme Court. And, of course, we are subject to the advice of some 5,424 oil and gas operators, their lawyers and their engineers.

In this framework—or I should say—goldfish bowl, we must make decisions every day that are responsive to changing international conditions, changing economic conditions affecting the demand for energy, changing concepts affecting our environment.

Under these conditions, I'd say that as far as the Commission is concerned, Texas looks ahead—carefully.

There are some policy trends of the Commission which I think you might discern:

The Commission pursues a policy of producing all the oil and gas that can be produced without waste.

We are looking for new regulatory methods that will encourage new discoveries.

We encourage operators to install equipment and methods which will increase recovery.

We are extremely active in the field of pollution abatement. I was a little surprised to learn from our most recent Activity Survey from our District offices that over 80% of the total man-hours of our field personnel is devoted to pollution abatement and related activities.

You can rest assured that the aroused awareness to environmental conditions will not be placated by words, and action will be the only acceptable solution.

Yet, in spite of the progressive policies which we pursue, all aimed at providing the U.S. consumer with the maximum amount of oil and gas which Texas fields and the Texas industry can produce, there seems to be a deliberate effort by some in Washington to malign the state of Texas and intimidate the Commission which is responsible for enforcing the Texas laws.

The Economic Report of the President prepared by the Council of Economic Advisors and submitted to Congress last month—at one point stated, ". . . to communicate Council viewpoints concerning current economic conditions and necessary policy decisions, Council Members and the Special Assistant to the Chairman made a substantial number of speeches throughout the year and participated in frequent interviews with representatives of all types of news media."

The Railroad Commission of Texas was mentioned prominently in a number of those speeches, those frequent interviews with the news media, and in this report. Thus, I am borrowing their procedure to communicate some of our viewpoints.

In his economic report last month, the President misinterprets our market demand law as being something separate from conservation. He said, and by he, I mean his report stated: "The state prorationing agencies have held back domestic production, and this, together with strict national security limitations on imports, has maintained relatively high U. S. oil prices." We are accused of going "beyond conservation (to) limit total production to the market demand for crude oil in the state at prevailing prices." This simply is not true. This garbled, poorly written section of the report sounds more like a sleepy sophomore's paper than the high level economic staff of the President of the United States.

Sure, we must prorate to market demand. To protect the reservoir pressures in individual fields, production must be regulated among the various producers. Though poorly explained, the report seems to concede this is a worthwhile practice. But, rather than recognizing that prorating to market demand is a logical extension of this effort—based on sound engineering principles of reservoir management—the report brands this as something "opposed" to "conservation proration." When the total productive capacity of these conservation-regulated fields adds up to more oil than anyone wants to buy, what do you do? Do you tell the producers to run it out on the ground? No, of course not, and the Texas Legislature, in its infinite wisdom, many years ago, very wisely said we will not permit such waste. We will cut back the total production to meet this demand. Isn't it logical under these circumstances to assign each well and each field a pro-rata share of this total, if the state is to give everyone a fair share of the total?

Yet, the President's report says we limit production to demand "at prevailing prices." It may come as a surprise to whoever wrote that, but we don't know anything about "prevailing prices." We don't have any economists to tell us what volumes of oil will have what effect on what prices. And I don't believe the President has anyone who can tell him that either. The only excursions the federal government has made into price regulation—witness the natural gas fiasco—has been to dry up supplies rather than increase them.

Then a few days after the President's economic report we are subjected to threats and intimidations by one of his Council of Economic Advisers, Dr. Hendrik Houthakker. In one of those frequent interviews with the news media, referred to earlier, the press reported that he said that if the Railroad Commission reduces the March production allowable, "we will suspend the Connally Act." Now, the Connally Act, as you know, was enacted by the Congress some 36 years ago to stop the movement of hot oil in interstate commerce, in much the same way that the Mann Act was directed at white slavery and the Dyer Act against stolen automobiles. Now, one of the men whom the President looks to for advice on regulating the economy of the country says that he has his eagle eye on us and if we don't do as he says, he'll take steps to encourage the running of hot oil. This seems to be a very strange stance for an administration which has had much to say about law and order and returning power to state governments.

This same Dr. Houthakker is quoted in the February 13 issue of Business Week and other media, as having said, "We are not saying that state prorationing is 100% responsible for the decline in drilling of new oil wells. But on the other hand, the state prorationing system reduces the incentive for drilling . . ."

Now, I have been on the Commission only 6 years, but in the literally thousands of hearings which have been held during that time, I have yet to hear this argument advanced by the people who risk their money in hunting for oil and gas. We hear arguments every week, I suppose, among competitors over their share of the allowables which are set for various fields. But we have yet to hear anyone asking to suspend the system as an incentive for drilling.

This same economist then puts on his anti-trust fright wig and intimates rather strongly to the companies who buy oil that in the absence of the Connally Act, they might be running afoul of the law if they tell us how much oil they want to buy. What he doesn't seem to know is that this is only one source of information on which we base our judgment as to what the demand might be. A particularly helpful barometer is the level of crude and product stocks. We also take a look at what the U.S. Bureau of Mines estimates to be the need. Interestingly, at the very time when Dr. Houthakker was suggesting that we had better not reduce the March allowable, the U.S. Bureau of Mines estimate indicated a decrease of 120,000 barrels from February. Fortunately, the nominations and stocks were such that we were able to hold the line.

We would be glad for Dr. Houthakker or anyone else to "nominate" how much crude oil *he* wants to buy. Assuming he has the transportation facilities and storage facilities, and that it can be produced without harm to the reservoirs, and without undue waste of casinghead gas, and without adding to our salt water pollution problems, we would certainly consider his nomination along with those of the other would-be purchasers.

Now we find Dr. Houthakker expressing concern about oil inventories. Well, I suppose his judgment as to what is a proper and safe level of inventory is as good as any other single person. We also weigh that, too, in our decision-making. We will consider his views on the subject, but we cannot substitute his judgment for that of the literally hundreds of people who face the daily problem of guessing what the U.S. Consumer will want in oil products.

There is, of course, an alternative to our system of conservation—which seems to be the direction that some would have us take: wide open production in the more prolific fields, which of course would force the premature abandonment of the thousands of wells which are being nursed along to make whatever contribution they can to the energy needs of the country. We can ill-afford to lose these reserves. This course is so imprudent I'll not discuss it further.

While we are not in the business of manipulating the price of oil, it seems this is the major obsession of people like Dr. Houthakker. The President earlier had another group who wrote a blueprint for precisely this experimental purpose, using the import program as their machinery—and the American consumer as the guinea pig. In that instance, he had the good judgment not to follow their advice.

If these economists are sincerely interested in doing something to affect the price of oil, they should recommend some policies which would encourage an aggressive hunt for petroleum reserves. The discovery of another East Texas field or several fields with 5 or 6 billion barrels of reserves near transportation networks and markets would do more to decrease the price of oil than all the economic studies you could stuff in the White House. Oil in great quantities on the other side of the valve is just as available to the market as oil on this side under Texas law. The important thing is that each field must *share*—I emphasize the word *share*—in the market and not be allowed to take it over to the ruination of the rest of the fields and the less fortunate operators, investors, and landowners who have a royalty interest.

The criticism that these people are leveling at the industry and the Texas system of oil and gas conservation is just as silly as mine would be if I charged that all you engineers are part of a great conspiracy in which you are paid not to find oil and not to produce it; if you weren't part of this conspiracy, you would get out there and find oil and bring it to market.

Well, you know what the facts are: right now in Texas, we don't have much reserve producing capacity, perhaps two hundred thousand barrels a day, under present conditions. We are producing about 3.4 million barrels daily now and estimate a capacity for about 3.6 million barrels daily under present conditions. This is but 200,000 barrels of excess producing capacity.

When the demand for that crude exceeds our ability to produce it without waste, than what? That time will come very soon, too, unless sufficient incentive is provided to cause those idle rigs to be brought out of moth balls and cranked up again.

Our reserve capacity accumulated as a result of prudent management has been called upon many times to meet the needs of the American people and our allies in World War II and in the innumerable international interruptions since then. Right now the governments of the other major oil producing countries of the world have formed a cartel to jack up the prices, which will soon be passed on to the American consumer. And we find the President of the United States being advised to follow policies that will hasten the day when we have no barriers between us and the avarice of the Organization of Petroleum Exporting Countries.

Now it is probably obvious to everyone that I don't know anything about economics, but it seems confusing to me, why:

At a time when the demand for petroleum is steadily increasing;

At a time when we are producing faster than we are finding—thus, depleting our reserves;

At a time when we are becoming more and more dependent on foreign sources for our domestic needs;

At a time when these very sources threatened to cut off the supply altogether unless we met their demands for higher prices;

At a time when—for whatever reason—domestic drilling activity is at its lowest in 28 years;

And at a time when labor costs, drilling, developments and operational expenses continue to rise.

It is confusing to me, why at the time all this is taking place, Congress reduces the depletion allowance and the Federal Government takes over the operation of the Outer Continental Shelf for the avowed purpose of increasing the production, and thus, bring about a roll-back in the price of crude.

Now, I know everyone at all levels is interested in creating sufficient incentives to stimulate enough drilling to develop our much needed reserves, but if this is the solution, then I don't understand the problem.

I am pleased to report that about two weeks ago, we had the privilege of visiting with three gentlemen from Washington, all different departments. One was from the Council of Economic Advisers. We had an opportunity to show them through our shop and to explain our procedures.

They still may not agree with them, but if they choose to disagree further, at least it will be based on some knowledge of them. This in itself is a hopeful sign.

Bear in mind that the President of the United States has the toughest job in the whole world, and cannot be expected to be all knowledgeable on all subjects. He must of necessity rely upon the advice of others. As Americans, we have our obligations to assist him however we can.

I would hope that you men as individuals who comprise the major part of this nation's total brainpower trained in the hunting and producing of oil would write the President and give him your thoughts on the kind of advice he is receiving and your thoughts on the kind of policies we should pursue.

Only by working together will we meet the challenges that confront us.

But meet them we must. Not only is it important to our economic welfare, but it is absolutely essential to the security of our Nation.

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## STUDENT LEADERS ASK PRESIDENT TO END WAR

Mr. McGOVERN. Mr. President, 2 weeks ago more than 500 student body presidents and editors from our Nation's college and university campuses sent a letter to President Nixon expressing their dissatisfaction with our present policies in Vietnam, and calling for an immediate end to the destruction which we are raining on the peoples of Indochina.

I was deeply moved by their letter. The authors of the letter are not self-appointed spokesmen. They are the elected representatives of hundreds of thousands of our Nation's students. Their plea must not be ignored.

The authors of the letter represent our Nation's greatest resource; our idealistic young people. Many of these student body presidents and editors were involved in a peaceful way in the great civil rights movements of this and the last decade. They have helped lead our country to a reexamination of our policies and priorities in Vietnam, in regard to race relations, poverty, and the environment.

In my discussions with students and young people, I have sensed that they criticize America because they love America; they desperately want their country to achieve that standard of justice and compassion for which it was created.

Their letter and the concern which they express about our tragic and immoral involvement in Vietnam should be taken very seriously by everyone in this Chamber. I ask you to read their letter carefully and to consider that the finest young leaders of our times authored it.

Mr. President, because I feel that the letter to President Nixon from more than 500 student body presidents and editors is an important document, I ask unanimous consent that it be printed in the RECORD.

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

STUDENT GOVERNMENT OFFICE,
UNIVERSITY OF DELAWARE, STUDENT, CENTER,
*Newark, Del.*

THE PRESIDENT
*The White House*
*Washington, D.C.*

MR. PRESIDENT: The Administration seriously misinterprets the mood of both the campus and the countryside. While our campuses have not been the scene of highly visible political activity so far this year, it is incorrect to infer that this surface calm implies that students have accepted or support Administration policies. On the contrary, students continue to search for means and methods of changing disastrous policies.

The aftermath of the intense political organizing of the 1969–1970 academic year has required a re-examination of our assumptions about American society and its openness to change. We have had to deal personally with the lesson of the tragic events of last May—that American students, black and white, like our Czechoslovakian, Hungarian, and Mexican peers, undertake political protest at the risk of liberty, personal safety, and even our lives. It also must be recognized that as students our activity takes place in the context of the larger community. Until recently, the false dichotomy established by your Nov. 3, 1969 speech between antiwar students and the "silent majority" had separated us from older generations of Americans whose desire for peace is every bit as intense as our own. The "Vietnamization" policy enjoyed a temporay measure of public support because Americans hoped it would end our involvement and bring peace to Vietnam.

From our participation in the affairs of the larger community, it is obvious that public support for Vietnamization is rapidly eroding. As happened gradually during the Johnson Administration, the wide distance between official rhetoric and Asian reality undermines the credibility of the Administration. There is again a mounting crisis in public confidence and trust.

Last Spring public response to the escalation of the war in Cambodia was immediate and widespread. The American people made it very clear that they did not want the war expanded. It is appalling that the only lesson the Administration learned from that extension of the war was one of public relations—that escalations of American military activity should be hedged, denied, spread out, enveloped in Pentagonese double talk, unaccompanied by Presidential addresses, and obscured by news blackouts. Regardless of this attempted obfuscation, the recent policy changes which have deepened American involvement have not been camouflaged: the resumption of the bombing of North Vietnam; the increased military aid to the Cambodian government; the indefinite operation of South Vietnamese soldiers inside Cambodia; the use of American air power to provide close combat support for South Vietnamese ground troops operating inside Cambodia and Laos; the escalation of the air war to the highest level yet; the invasion of a politically delicate Laos that borders on North Vietnam and China.

The cumulative impact of these recent escalations is now taking root. The American people are beginning to reject the logic of a policy that purports to end a war in one country by invading two and bombing three.

Despite an abundance of rhetoric surrounding Vietnamization, the Administration has not faced the basic policy questions. Will

not the increased bombing necessitated by Vietnamization have the same effects as previous bombing campaigns—destroying replaceable supplies while strengthening the resolve of the North Vietnamese to fight on? How in the absence of a political settlement will the South Vietnamese be able to achieve the stability and security they could not achieve while aided by half a million American troops? How will strengthening the narrow and uncompromising Thieu-Ky regime lead to the reconciliation of political and military factions within South Vietnam? How in the absence of a political settlement are prisoners of war to be exchanged?

Unless these issues are resolved, Vietnamization will continue to be politically futile. Even beyond this, however, the moral consequences of Vietnamization are reprehensible and repugnant. The war in Vietnam is not synonymous with American casualties. Napalm sears yellow flesh as surely as it does white. My Lai's are inflicted as murderously by B–52's as they are by M–16's. Asian families suffer from the loss of their loved ones, homes, and villages. Asian mothers and wives mourn for their dead and long for the return of P.O.W.'s every bit as much as American mothers and wives do.

As long as our Asians, supplied, combat-supported and paid for by the United States, fight other Asians, the suffering and death remains an American responsibility. Changing the color of the corpses does not end the war. Yet it is apparent that our policy makers have never considered the cost in Asian lives of the policies they pursue.

Those of us, old and young, who oppose the war have no alternative but to organize our opposition as vigorously and effectively as we can. The Administration that ignores the American people's desire for an end to the war does so at the risk of terrible consequences. It should not be necessary to say this to a President whose predecessor was driven from office for precisely these reasons. But far more is at stake than the political careers of one or two Chief Executives.

Mr. President, you must reverse futile and immoral policies and use your authority to end the bloodshed in Vietnam. If not, you will have to take responsibility for an intensification of public divisiveness and disunity which will further weaken the already torn moral and social fabric of American life. The outrage and the purposefulness emerging from beneath the surface despair on our campuses, when it is coupled with the widespread loss of public confidence in your administration, cannot be deflected or contained.

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## SUPPORT FOR EXECUTIVE REORGANIZATION

Mr. PERCY. Mr. President, the President's major plan for reorganizing the executive branch has been greeted with strong editorial support. The Wall Street Journal in an editorial on March 29 said:

There is evidence on all sides that a more rational management of the government bureaucracy is becoming a national imperative.

The St. Louis Globe-Democrat said:

President Nixon's call to end the fragmentation of the federal government should be heeded by every member of Congress who is at all concerned about the excessive cost and gross inefficiency of the bureaucracy-clogged machinery now in operation.

It added that—

The reforms sought by Mr. Nixon have solid public backing.

The Washington Star on March 29 said that the reorganization plan—"would . . . replace the ungainly result of haphazard governmental growth with a structure based on logic. It would eliminate duplication, clarify lines of responsibility and make the Government more comprehensible." The Salt Lake City Tribune on March 27 called the proposals a "solid frame" which might contain "inconsistencies" but which offers a chance to improve the function of the Government.

Finally, an excellent article written by Burt Schorr and published in the Wall Street Journal of March 26, describes well the need for Government reorganization of the kind President Nixon has proposed. Mr. Schorr describes the creation of Foss Dam in Oklahoma, the water of which is undrinkable. Built with $20 million of taxpayer dollars, the dam "is an especially galling example of bungled planning" resulting from several agencies working at cross purposes with each other.

I ask unanimous consent that the articles be printed in the RECORD.

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

[From the St. Louis (Mo.) Globe-Democrat, Mar. 2, 1971]

TIME TO PRUNE FEDERAL TREE

President Nixon's call to end the fragmentation of the federal government should be heeded by every member of Congress who is at all concerned about the excessive cost and gross inefficiency of the bureaucracy-clogged machinery now in operation.

Mr. Nixon, who has become a harsh critic of the existing multi-layered structure, told Congress in a special message that federal responsibilities are so fragmented that various agencies often "trip over one another as they move to meet a common problem" and sometimes "step on one another's toes."

Citing an example, he said, "One agency will try to preserve a swamp . . . while another is seeking to drain it."

Obviously, as the President contended, such scattered responsibility "makes it extremely difficult to launch a co-ordinated attack on complex problems."

To correct the problem the President has proposed a wholesale reorganization of federal agencies. He has asked Congress to abolish seven of the 11 existing Cabinet departments—the 12th, the Post Office Department, already is scheduled to become a governmental corporation—and establish four new ones in their place, for a total of eight Cabinet posts.

Mr. Nixon called for the creation of new departments of Natural Resources, Community Development, Human Resources, and Economic Affairs. These would absorb the present departments of Agriculture, Commerce, Labor, Transportation, Housing and Urban Development, Interior, and Health, Education and Welfare. The departments of State, Defense, Treasury, and Justice would be the only ones not affected by the reshuffling.

The President's aim is to group departments and their responsibilities around cohesive goals. To illustrate this need he said: "Nine different federal departments and 20 independent agencies are now involved in education matters. Seven departments and eight independent agencies are involved in health. While we cannot eliminate all of this diffusion, we can do a great deal to bring similar functions under common commands."

Mr. Nixon has presented sound arguments in favor of a major overhaul of the cumbersome federal bureaucracy. Inefficiency in Washington is legend.

In addition, a streamlining and tightening up of the federal mechanism could be expected to result in appreciable savings in the costs of operations, through the elimination of wasteful duplications.

It has been estimated that the proposed changes eventually could bring about a savings of $5 billion a year.

The reforms sought by Mr. Nixon have solid public backing. Taxpayers are tired of supporting what has been described as the "bureaucratic elite." Though deeply entrenched, it's time they were uprooted.

The President has rightly declared that "a truly comprehensive restructuring" of the overlapping and needlessly complex federal system—which comes dangerously close to immobility at times—is required to meet the needs of the nation. The next move is up to Congress, which in the interests of the country's welfare should prune the overgrown federal tree.

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[From the Washington Evening Star, March 29, 1971]

RESTRUCTURING THE EXECUTIVE

President Nixon, his face still stinging from the legislative slap that ended the SST hassle, has turned the other cheek to Congress by sending to the Hill his ambitious plans for streamlining the executive branch. The members will be tempted to let him have it once again. But this time, Congress should stay its hand.

The reorganization plan, first proposed in the President's latest State of the Union address, is sure to raise some congressional hackles. The proposal to reduce the total number of cabinet departments to eight would mean a major reshuffling of the entrenched congressional committee system. And unless human nature changes abruptly in the coming weeks, considerable reluctance can be expected from those chairmen who will be asked to preside over the dissolution of their empires.

But even though the pill may be bitter, the prescription is valid. Now that the details have been filled in, it is clear that the proposal would not eliminate any of the present functions of the federal government, nor would it add any new ones. It does not fulfill the predictions of those who anticipated the creation of bigger, less workable departments to replace the present big and barely workable ones.

It would, rather, replace the ungainly result of haphazard governmental growth with a structure based on logic. It would eliminate duplication, clarify lines of responsibility and make the government more comprehensible. It might make the government function with something approaching efficiency. It might save the taxpayers some $5 billion a year.

This is not to say that the proposal is perfect in its present form and that it should be swallowed whole by Congress without debate or alteration. Even a quick review of the plan turns up at least one questionable compromise and one seeming blunder, indicating that painstaking congressional consideration is not only justified but demanded.

The President has proposed a compromise solution to the struggle between the environmentalists and the military over control of the civil construction activities of the Army Corps of Engineers. The Pentagon, citing the possibility of national emergency, fought to keep the engineers in the Defense Department. The environmentalists charged the corps with a spotty ecological record, and demanded that they be placed under the watchful eye of the proposed Department of Natural Resources. Mr. Nixon's compromise would leave the engineers in the DOD, but would transfer the funding, planning and evaluation functions to Natural Resources—a move that would appear destined to increase the confusion, inflame the conflict and further tangle the lines of responsibility.

Then there is the matter of the Indians. For some reason not readily apparent, the Bureau of Indian Affairs would be moved to the Department of Natural Resources. If there are arguments for such a move, they had better be good. As it stands on paper, it appears that someone up there still thinks of the Indians in the same category as coal, oil, fish and wildlife—items to be exploited for the benefit of the latecomers to North America. Surely the Indians belong with the rest of us under the Department of Human Resources.

Despite these preliminary reservations, though, the President's reorganization plan is essentially sound and should be given the full and respectful attention of Congress. Mr. Nixon is right about the need for reform. The present structure of the government is a mess. Americans are losing faith in the ability of the government to perform. Further tinkering will only compound the problem. A major restructuring of the apparatus is overdue.

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[From the Salt Lake City (Utah) Tribune, Mar. 27, 1971]

NIXON REORGANIZATION PLAN OFFERS INCONSISTENCIES, BUT SOLID FRAME

President Nixon's plan to consolidate seven cabinet departments into four is in response to what he says is the conclusion of "most Americans . . . that government is not performing well." Initial reaction is that the proposal provides the framework by which government can perform better. But the plan also prompts the question: Are they going to create chaos out of confusion?

Duplication of effort in the federal government is readily apparent. In education alone nine federal departments and 20 independent agencies share the pie. Salt Lake City, in seeking and receiving federal grants, must deal with at least three cabinet level departments—Justice, Housing and Urban Development and Health, Education and Welfare. There may occasionally be others. Any consolidation of the urban services of these agencies into the proposed Department of Community Development would certainly simplify this city's relations with the federal government.

But Mr. Nixon's initial consolidation plan presents several possible conflicts between proposed departments. He plans for the new Department of Natural Resources to handle Indian and territorial affairs. Wouldn't the Department of Human Resources be the place for Indian affairs?

Efforts to foster economic justice would be the role of the Department of Economic Affairs. Economic justice often involves poverty programs and civil rights considerations. Aren't these considerations of the Departments of Justice and Community Development? Here we have three departments possibly involved in one problem. If this results, has government really become more responsive? Or will John Q. Public still find himself being shuttled from agency to agency, with no bureaucrat able or willing to help?

However, Mr. Nixon's consolidation plan must not be given short shrift and labeled unworkable because of these inconsistencies. Instead Congress must give it a full and careful analysis.

Because of the very complexity of the federal government it seems unlikely Mr. Nixon will see fruition of his plan during his occupancy of the White House, even if he serves another term. Streamlining something as awkward as the federal government is not done swiftly.

Mr. Nixon has presented a modern grouping of areas that are the proper concerns of government. It is now the job, even duty, of Congress to reconcile any inconsistencies within the Administration's framework. The work will be long and slow, but the tortoise won the race because he kept running. Congress can't do less.

[From the Wall Street Journal, Mar. 29, 1971]

ONCE MORE UNTO THE BREACH

"Sometimes it is easier to win a big war than a small war," one of the architects of President Nixon's sweeping governmental reorganization program said the other day.

We hope he is right, because getting such a major overhaul through Congress will involve a major war. Other Presidents have failed at far less ambitious attempts. As Mr. Schorr noted on this page on Friday, Senator Stennis and other powerful Congressmen already are aiming their howitzers at the program. Their reasons aren't impressive, being mainly based, we suspect, on fears that their personal power is threatened.

They would serve their country better if they adopted a more receptive attitude. There is evidence on all sides that a more rational management of the government bureaucracy is becoming a national imperative. The government has evolved—through political interplay, not design—into a myriad of functional units, under separate commands, often duplicating each other and warring over who gets what piece of what action. To cite one horrible example, 17 different units spread across government involve themselves in international economic affairs.

Too often recently, with no single department having either sufficient authority to do a job or accountability for failure, expensive programs have failed for lack of proper implementation. The gap between what the government promises and what it delivers increasingly strains its credibility. The President and Cabinet officers waste countless hours refereeing intramural disputes.

The President's proposals, in four bills sent to Congress last week would wipe out seven existing departments and five executive agencies and divide their functions among four new departments, Natural Resources, Human Resources, Economic Affairs and Community Development.

Cynics might think that the proposed reorganization, like many, would merely apply new department names to the same people doing the same things. In fact, the program is revolutionary, which is why it will be so difficult to get through Congress. The regrouping of functions to avoid duplication and rivalries is only part of the idea.

Present departments too frequently serve as the voice in government of certain well-organized constituencies, such as organized labor or farmers, whose interests might be counter to the national interest. The reorganization would attempt to substitute departments that would be stronger and more independent from narrow pressures and thus better able to undertake missions truly in the national interest.

For example, a good case can be made that manpower retraining programs serve important national social and economic goals. They do not, however, necessarily benefit organized labor, a minority group in the work force, because they create new job competition. It probably is no accident that they have not been a notable success.

In some of the existing departments, the ability of the Cabinet secretary to manage has been deliberately weakened by Congress to enhance Congressional power. The Secretary of Health, Education and Welfare does not have even full budget control over his department. The reorganization would attempt to restore management control and accountability.

Congressmen might worry that the reorganization would weaken Congress and strengthen the executive to the point of destroying traditional balance. But we doubt that the concern is justified. Congress still would have control over appropriations. And many Congressmen themselves complain

about their inability to establish accountability in the Executive Branch.

No one would argue that the reorganization proposal is perfect; yet the public has heard a lot of complaints in recent years about the untoward power of military contractors, labor leaders, farm organizations, health organizations and other lobbies in Washington. Whatever the attempts at obfuscation, voters would do well to closely observe how their own congressmen perform on a reorganization that could reduce such influences. The issue may well be a test of whether the country has the will and power to return to more representative government.

But it indeed will be a big war, and we can only hope that the country wins it.

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[From the Wall Street Journal, Mar. 26, 1971]

GOVERNMENT REORGANIZATION: TOUGH GOING

(By Burt Schorr)

WASHINGTON.—If President Nixon needs to dramatize the Cabinet reorganization proposal he sent Congress yesterday, a photograph of western Oklahoma's Foss Reservoir would serve perfectly.

A decade ago the Interior Department's Bureau of Reclamation formed the reservoir by throwing an earthen dam across the upper Washita River. To carry the water to four thirsty Oklahoma towns, the bureau also constructed a 55-mile underground aqueduct and pumping system. Overall, Washington's investment totals more than $20 million (although a bit more than a third of this was to be recovered through water purchases).

Today, Foss Dam stands sturdy, the distribution system is being maintained in tip-top condition and the lake, while 80% smaller than anticipated, sparkles nevertheless amid the gently rolling hills. All is serene—except for one problem.

Foss Reservoir water is undrinkable.

The lake, it seems, is loaded with minerals, and conventional filtering and softening methods can overcome neither the "dissolved solids—or the obnoxious taste—nor the undesirable effects of the Epsom salts," as an official of the local agency that was supposed to market the water complained to Congress several years back. A $1.5 million desalination plant has been proposed as a solution. Meanwhile, the aqueduct remains dry, and beyond some minor irrigation use, the lake's chief value has been to migrating water fowl.

BUNGLED PLANNING

Laying out $20 million for a drink of Epsom salts is sad enough. But Foss Reservoir is an especially galling example of bungled planning: It is a story of two federal agencies at cross-purposes.

In the early 1950s, while the Bureau of Reclamation was still studying the project's feasibility (urged on by Oklahoma's late Sen. Robert Kerr, a powerful friend of big dams), the Agriculture Department's Soil Conservation Service was already building small flood-control dams on Washita tributary streams upriver. Ultimately, 204 of these dams were erected at a federal cost of $6 million. And nobody can say they haven't worked.

Indeed, the reclamation people believe, the small dams are the major reason that the flow into Foss Reservoir has been only a third of that projected. (Dry weather is another reason.) The water blocked by the upstream dams, moreover, is of a higher quality than that available from other parts of the reservoir watershed. This aggravates the taste and purification problem.

Clearly, Foss Reservoir is the kind of thing the President's Council on Executive Reorganization, headed by Roy L. Ash, chairman of Litton Industries Inc, had in mind when it said federal water resources development suffered from "interagency rivalry, duplicative planning and conflicting policies." The council's proposed remedy: Gather water responsibilities now vested in three tradition-encrusted departments—Agriculture, Interior and the Army (Corps of Engineers)—into a new Department of Natural Resources.

This and other recommendations contained in the 160-page Ash Council report, completed last fall, have become the foundation for the government-wide reform envisioned by Mr. Nixon. Congress willing, Mr. Nixon would forge four super departments from the present Departments of Agriculture, Labor, Commerce, Interior, Transportation, Housing and Urban Development and Health, Education and Welfare, plus lesser assorted pieces of the federal bureaucracy.

"Over the years we have added departments and created agencies at the federal level, each to serve a new constituency, to handle a particular task—and these have grown and multiplied in what has become a hopeless confusion of form and function," Mr. Nixon said in his State of the Union message. "The time has come to match our structure to our purpose—to look with a fresh eye, to organize the government by conscious, comprehensive design to meet the new needs of a new era."

The congressional response, however, hasn't been the one Mr. Nixon was looking for. At this point, it can be described as overwhelmingly negative, if not actively hostile. "Grandiose in concept, monstrous in scope and impossible of achievement," is the way one senior House Democrat whose support is crucial recently described the proposal to a White House staffer.

Another Capitol Hill heavyweight, Sen. John C. Stennis, doesn't like the idea of the new Department of Natural Resources either. He sternly warned the other day that transfering some or all of the Corps of Engineers from the Department of Defense to the intended DNR "strikes at the vitals of our national defense posture." Vagaries of metaphor notwithstanding, Mr. Stennis' words aren't to be taken lightly; the Mississippi Democrat commands the powerful Armed Services Committee and heads the Public Works Appropriations subcommittee. The latter parcels Corps dams and other pork barrel projects that benefit nearly every congressional district.

A THREAT TO CONGRESS

The Hill resistance to reorganization certainly reflects some genuine concern that creating still larger Washington bureaucracies may actually make Federal programs less responsive to national needs. But a number of Senators and Congressmen undoubtedly see the Nixon plan as a threat to their power bases. "Seniority arrangements that have been worked out over the years suddenly would have to be realigned. This would shake up every committee of Congress," observes one lobbyist in frequent contact with members of the Southern Democratic bloc that largely dominates Congress.

The special constituencies of departments marked for extinction—notably farm organizations and labor unions—are no less concerned about losing influence. In a recent newsletter, the National Rural Electric Cooperative Association razzed Mr. Nixon for arguing that carving Agriculture into four superdepartments would mean four Cabinet members speaking up for farmers, rather than only one.

Asked the newsletter, Why stop at four? Why not split Agriculture into eight departments. "Think of it. Eight voices speaking up to the White House about the troubles of farmers, none of them really knowing anything about rural problems, but all of them using good grammar."

Though they were almost radical departures in their time, the Rural Electrification Administration, the Forest Service (both also in Agriculture), the Soil Conservation Service, the Corps and the independent Atomic Energy Commission all have acquired an almost untouchable sanctity over the decades. Their dug-in positions are defended, moreover, by a fast-moving reaction force of lobbyists as well as strategically located congressional committee chairmen.

One is Democratic Rep. Chet Holifield of Los Angeles County, a leading AEC crusader. In Congress for 24 years, Mr. Holifield worries that placing the government nuclear-power activities in the Natural Resources superdepartment might allow coal and oil interests to sabotage development of atomic power. Whether this argument is valid or not, Mr. Holifield couldn't be in a better position to see that transfer never happens; he's chairman of the House Government Operations Committee through which all reorganization bills must move.

Actually, only one of Mr. Nixon's proposed changes, a Department of Community Development, is judged to have even faint prospects of passage—principally because it would consist mainly of the present Department of Housing and Urban Development and thus is calculated to provoke the least controversy. Nixon aides say that in an effort to salvage something in the current session, the President might settle for a DCD alone if he could get it. (Some Hill staffers believe, though, that no action on reorganization is possible at all until after the 1972 election, and then only if Mr. Nixon wins.)

Still, one can argue that the aspect of Mr. Nixon's plan that makes the most sense is the proposed Department of Natural Resources. For when natural resource agencies negotiate as equals from behind the parapets of their separated departments, a Foss Dam is only one of many possible boondoggles. Consider these equally depressing intragovernmental tangles cited by the Ash Council:

The Soil Conservation Service is straightening and deeping streams in Southern states to control floods, while Interior Department men deplore the toll the work is taking of fish and wildlife populations.

Authority over non-military public lands is shared by four agencies in two departments; federal recreation areas are administered by five separate agencies in three departments. (One consequence: a series of occasionally bitter struggles between the Forest Service and Interior's National Park Service over how and by whom newly designated wilderness and recreation areas will be administered. "Every time there's a proposal to make a park out of forest lands, there's a disagreement," says a Park Service official.)

In Kansas, an existing Bureau of Reclamation project is threatened by a proposed upstream watershed development by the Soil Conservation Service. In Montana, the Corps of Engineers and Bureau of Reclamation are studying separate projects for the same site.

Energy programs are scattered among several departments and agencies, the Ash report notes, "with no single agency charged with developing a unified approach to energy resource utilization and conservation." (Total federal outlays for development of nuclear power generation now approach $3 billion, dwarfing the research spending for gassification of coal, say, or commercial uses of shale oil—an imbalance that soon could prove costly to U.S. energy consumers as world petroleum demand soars.)

To mute inter-agency conflicts and to try to eliminate duplication of effort, a mysterious and ubiquitous Washington institution has emerged, the Interagency Committees. The Ash Council counted some 850 of them, though many apparently haven't met for years. The committees can produce compromises, but are the compromises really in the public interest? The history of one super interagency structure, the Water Resources Council, suggests that the answer is often no.

Congress established the Council six years ago; membership today includes the Secretaries of Interior, Agriculture, Army, HEW,

Transportation and the chairman of the Federal Power Commission. Its mission: Improve Washington leadership and coordination of government water planning and construction programs. Part of the task has involved supervision of 28 comprehensive federal-state studies of major river basins, studies reckoned to cost federal taxpayers about $95 million in all.

SPLITTING UP THE TERRITORY

Now some basin study critics argue that the entire effort has largely been a waste of money and time. One of them should know: He's Council Director W. Don Maughan, a Nixon appointee who took over in mid-1969 (too late to have any impact on the basin work being done by interagency field committees). In Mr. Maughan's view the final basin reports are proving to be little more than formal agreements between federal water agencies not to intrude on each other's territory—that is, so many flood control structures for the Corps, so many dams for reclamation, so much land treatment by the Soil Conservation Service, with everybody living happily ever after.

What has been overlooked, Mr. Maughan believes, is the possibility, for example, that a basin or two might get along without any more big dams or without any more irrigation projects. "Nearly all the money's been spent and we don't have all the alternatives," he complains.

Could it have come out any other way? Probably not, considering that Congress deliberately chose to let each agency budget its own share of the basin study funds. Not surprisingly, some had much greater success with their respective appropriations subcommittees than others, creating an imbalance of basin study inputs. More important, the procedure left the Council almost powerless to force new thinking on case-hardened agency officials.

"Unless you hold the purse strings, individual agencies tend to build up their own programs," one veteran water program man on the Council staff concludes.

Control of the purse strings, of course, is what reorganization is *really* all about, and apprehension about losing control is the reason that the most logical reorganization plans often get nowhere.

## STANDARD MORTGAGE FORM PROPOSED BY FNMA AND FHLMC

Mr. MONDALE. Mr. President, public hearings are currently being held on a standard mortgage form about to be issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. These hearings could have extremely important consequences for American howeowners. The distinguished Senator from Illinois (Mr. STEVENSON) has submitted testimony urging that FNMA and FHLMC revise their initial draft of the standard form, since that draft contained several provisions unfair to prospective homeowners seeking mortgages.

I ask unanimous consent that Senator STEVENSON's testimony be printed in the RECORD.

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

STATEMENT OF SENATOR ADLAI E. STEVENSON, III, BEFORE THE PUBLIC MEETINGS ON THE EXPOSURE DRAFT HELD BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION, APRIL 5, 1971

First, I would like to commend both the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation for holding these public hearings.

As Ralph Nader and my colleague, Senator Proxmire, among others, have publicly and persuasively pointed out, the provisions of these standard mortgage forms are of interest to American consumers as well as to the financial community. Your response to this legitimate concern is gratifying. However, these hearings will serve a useful purpose only if the criticisms, comments, and suggestions made here are reflected in the final form.

The standard mortgage forms will be required for all conventional mortgages sold to FNMA and FHLMC under provisions of the Emergency Home Financing Act of 1970.

Therefore, not only will a large number of mortgages transactions require these forms, but there is a real possibility that the convenience of a standard form will induce its use even if a lender does not intend to sell a mortgage to FNMA. Potentially, the provisions in the form affect all homeowners.

Obviously a mortgage contract must protect the interest of the lender as well as the interest of the borrower. However, I have examined the proposed draft and I must say it provides a good deal more protection than is necessary to the former at the expense of the latter.

I find three provisions particularly objectionable.

First, the form requires that borrowers make their property tax and hazard insurance payments through their monthly mortgage payments. The lender then commingles these payments, earning interest on them, while the form prohibits the lender from paying any interest to the borrower. In other words, the provision grants the lender an interest-free loan from the borrower for up to a year.

I know of no rationale which justifies this provision. Either the lender should be required to hold the funds in escrow and not be allowed to earn interest on them or he should be required to pay any interest derived from use of the funds to the borrower or he should waive collection of such funds.

Secondly, the provision which would allow a mortgage lender to accelerate mortgage payments without prior notice if the borrower were 30 days late in making a monthly mortgage payment also seems unduly harsh on homeowners. I would think a requirement that a ten day notice be given before acceleration would give consumers some protection without unduly burdening lenders.

Finally, the draft form does not contain a truth-in-lending clause. The mechanics of mortgages, although they may be second nature to lawyers and bankers, are complex and often confusing for most borrowers. I don't believe it is asking too much to require a lender to disclose the full amount of principal and interest a homeowner would pay over the life of the loan.

If the forms are approved without changing these provisions, the federal government would, in effect, be placing its stamp of approval on provisions I consider harmful to consumers. I strongly urge FNMA and FHLMC to revise these forms so that they protect both parties in a mortgage transaction.

## TELEVISION STATION JOINS EFFORTS TO CLOSE NEWS CREDIBILITY GAP

Mr. HANSEN. Mr. President, the news media of the United States have a great reputation for fairness and accuracy in their reporting, and this reputation is well deserved, in my opinion.

One of the virtues that have kept American media the world leader in setting standards for objectivity has been the willingness, or more accurately the readiness, of each medium to respond with an open and reasonable approach to responsible criticism. It is difficult for a medium to follow strictly in its news presentations a true course of objectivity.

But such a course is desirable, and the media of America constantly seek self-improvement.

One great advantage we have had and continue to have in this country in maintaining freedom of the press and freedom of speech is that most of the media and segments of each medium have business and editorial competition. When one newspaper, or magazine, or radio station, or television station has erred—either in judgment or in reporting the facts, there has always been a competitor eager to point this out—usually by a presentation of the facts.

The real test of greatness in a news medium is when that medium discovers its own mistakes and faithfully reports them to the public—allowing as much equally prominent space, or prime time in the correction as in the original presentation of the incorrect material—and preferably even more space and prime time.

According to Variety magazine of March 31 a television station in Chicago, WLS–TV, has pointed out that the subjects of a picture whom Life magazine identified as Army agents invading privacy of civilians, actually were neither detectives nor soldiers, but members of the WLS–TV news staff.

According to Variety, Life magazine refused to admit to the error.

I believe the American people readily accept the possibility and probability that members of the news media and Members of Congress are subject to mistakes on occasion. It is not acceptable when mistakes are not admitted, and when the search for the truth is discontinued.

I ask unanimous consent that the Variety article be printed in the RECORD. I commend both WLS–TV and Variety for calling this matter to the attention of the public.

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

WLS NEWSMEN TAGGED AS "ARMY SPIES" BY LIFE MAGAZINE; WHO GOOFED? OR WAS IT?

CHICAGO, March 30.—WLS–TV, the Chi ABC TV, started out looking tolerantly upon an apparent goof in Life magazine March 28, in which its news team was identified as an Army surveillance team at the August '68 Democratic convention. However, the station has grown increasingly irritable as Life has attempted to shift the blame to an informant and leave open the implication that the newsmen may have been in the cloak-and-dagger business.

In an article titled "Swarms of Army Agents Clumsily Assault the Privacy of Citizens." Life ran a pic with the following cutline: "Army agent Richard Stahl, at far right, walks through the (Lincoln) park. At center, radical Rennie Davis faces three other Army agents posing as newsmen: Robin Hoff, in light suit, a man named Lounsbury kneeling with earphones, and the large man in the white shirt."

WLS–TV blew up the photo to show that the camera bears their logo, and identified the man in the "white suit" as their reporter Frank Mathie, the man holding the camera to be their cameraman Harry Elatkin, "the large man in the white shirt" to be

WLS–TV lightman Ted Nagy, and the other man to be soundman Sam Stone.

On March 23, WLS–TV newsman Joel Daly wryly commented on the air: ". . . How could this happen? Mistaken identity, wrong information, sloppy reporting. This is the sort of foul-up for which television is so frequently criticized, but not a magazine as prestigious as Life . . . No, it's obvious: We, in television—shallow, happy-talking, pretty-faced, sensation-seeking 'actors'—have made another mistake. We failed to realize that Frank Mathie was really a double agent, probably intercepting newsroom memos for the FBI, CIA, CBS and NBC. Meanwhile, that crew has been placed under house arrest and advised they are required to give only their name, rank and serial number. But Frank was heard to say as we locked the door tonight: "Where is Spiro Agnew when we really need him?'"

A few days later, the humor began to wear thin for WLS–TV as Life issued a statement that the picture identifications had been given to them by former Army Sergeant John O'Brien and that "Life intended to stick behind them." It became curiouser when O'Brien, apparently not sticking behind Life, was reached by WLS–TV and denied ever giving "positive identification" of the people in the photo.

WLS–TV then located Robin Hoff, who was identified as an Army spy in the photo and is now working in a bank in Marquette, Michigan, and Hoff said that the picture was not of him. Hoff volunteered to come in to a March 26 WLS–TV news show and say as much.

WLS–TV news director John Mies said that neither he nor the station was inclined to indulge in a debate with Life over the matter. "It was wrong," Mies said, "whether it was our station or not."

A station source said that WLS–TV had originally intended to treat the matter as a bad joke if Life confessed to the error of its ways. However, with the magazine refusing to back down, the station feels it has been maligned and its news position undermined.

## EXTRADITION FEARS CONCERNING GENOCIDE CONVENTION ARE UNFOUNDED

Mr. PROXMIRE. Mr. President, the United Nations and its specialized agencies have painstakingly hammered out legally binding human rights conventions. In the Genocide Convention, acts committed with the intent to destroy in whole or in part an ethnic, racial or religious group were branded an international crime against the law of nations.

Many of those who have opposed the ratification of this human rights convention have done so because of a fear that U.S. citizens would be subject to extradition and be stripped of their constitutional safeguards. These fears are not justified in any way.

U.S. law provides for extradition only when there is an extradition treaty in force. The Convention on the Prevention and Punishment of Genocide does not purport to be an extradition treaty. There are no treaties making genocide an extraditible offense now in existence.

A major factor in any decision to negotiate an extradition treaty is whether the judicial process of the other country affords persons who may be extradited a fair trial. George Aldrich, deputy legal adviser to the Department of State testified on April 24 of last year before a subcommittee of the Foreign Relations Committee that—

> First, any extradition treaty will require the State requesting extradition to produce sufficient evidence to persuade both a United States Court and the Executive that the person sought would be held for under United States law if the offense had been committed here; second, any extradition treaty will assure the person sought the right to the remedies and resources provided by the law of the requested State . . . for example, habeus corpus . . . [third], any extradition treaty will preclude extradition when the person sought is undergoing or has undergone trial in the United States for the same act.

Article VI, which specifies that persons accused of genocide be tried in the state where the act was committed, encompasses only the obligation of that state. It does not, however, exclude trial by other states having jurisdiction. The negotiating record of the Genocide Convention makes clear that the trial for acts committed in a foreign country may be held in the state of which the offender is a national. The statute implementing the convention should cover not only the acts committed in the territory of the United States, but in addition, acts committed anywhere by American nationals.

Mr. Aldrich further stated that in the event a case is presented involving an American national before criminal proceedings have been initiated in the United States, "we would reserve discretion to initiate proceedings ourselves, rather than extradite." Our aim here should never be to evade the administration of justice, but to further strengthen it by assuring that those accused are insured their inherent constitutional rights and to be placed on record that we are as deeply interested in preventing genocide as we are in bringing to justice those who have committed this crime.

Arthur Goldberg, in recent testimony before a subcommittee of the Senate Foreign Relations Committee, disputed claims that ratification of the Genocide Convention would subject American citizens to trial in foreign countries on trumped up charges of genocide. He said such an assertion was "totally false." "There is nothing in the Genocide Convention," he said, "that would provide warrant for charges by" other countries against our citizens. Any country can make such charges, founded or unfounded, true or false, anytime of day or night, regardless of whether or not we ratify the convention. Do those who say this is not true think that by not signing the convention we will protect our citizens and our country from such trumped up charges? I hardly think so.

Some concern has been expressed over the jurisdiction we would have over a national of our state who has committed the offense of genocide abroad. In the words of Justice Arthur Goldberg:

> There is an agreed interpretation by the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any state to bring to trial before its own tribunal any of its nationals for acts committed outside the state.

In debates before the United Nations by the Economic and Social Council the representative from India was concerned that the convention, as written, said nothing about the jurisdiction of any state beyond that in which the crime was committed. In its final report to the General Assembly of the United Nations the Committee replied to the Indian delegate that—

> The first part of Article VI contemplates the obligation of the State in whose territory the acts of Genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State. (United Nations Document A–760, December 3, 1948, report of the 6th Committee of the General Assembly on the Agenda item: Genocide, Draft Convention and Report of the Economic and Social Council).

Mr. President, I ask unanimous consent that the complete text of this document be printed in the RECORD following my remarks.

There is certainly reason to be concerned about American citizens if, they might be subjected to criminal proceedings arbitrarily and without those constitutional rights and guarantees we have in our Nation. When other Human Rights Convention were brought before the Senate for ratification, we heard similar claims. But they have turned out to be unfounded. In the words of the Foreign Relations Committee report concerning American citizens:

> Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of this convention.

Our citizens will not be endangered by our ratification of this convention. The United States can at last go on record outlawing genocide and more importantly, can contribute to the foundation of international law and respect for human dignity and human rights—on which our future depends.

I hope we can act without further delay.

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

DOCUMENT A/760 & CORR. 2

Agenda item 32: Report of the Sixth Committee [*Original text: English*] [3 December 1948].

*Rapporteur:* Mr. J. SPIROPOULOS (Greece):

1. In resolution 96 (I) of 11 December 1946, the General Assembly, at the second part of its first session, affirmed that genocide is a crime under international law which the civilized world condemns. At the same time the Assembly requested the Economic and Social Council to undertake the necessary studies with a view to drawing up a draft convention on the crime of genocide to be submitted to the second regular session of the General Assembly.

2. The Economic and Social Council, by resolution 47 (IV) of 28 March 1947, instructed the Secretary-General to prepare, with the assistance of experts, a draft convention on the crime of genocide.

3. In accordance with this instruction, the Secretary-General prepared a draft convention which, on 7 July 1947, was transmitted to Member Governments for their comments and which, together with the comments received, was submitted to the second regular session of the General Assembly.

4. By resolution 180 (II) adopted on 21 November 1947, the General Assembly, at its second session, reaffirmed its former resolution on the crime of genocide and requested the continuation of the work begun by the Economic and Social Council concerning the suppression of this crime, including the

study of the draft convention prepared by the Secretariat.

5. Accordingly, the Economic and Social Council, at its sixth session, established an *ad hoc* Committee, composed of the representatives of seven Member States, to draw up a draft convention on genocide for consideration at the next session of the Council. The *ad hoc* Committee met at the headquarters of the United Nations during the period from 5 April to 10 May 1948 and prepared a report containing a draft convention on the prevention and punishment of the crime of genocide (E/794).

6. At its seventh session, the Economic and Social Council decided, by resolution 153 (VII) of 26 August 1948, to transmit to the third session of the General Assembly the report of the *ad hoc* Committee and the draft convention together with the records of the proceedings of the Council at its seventh session on this subject (E/SR.180, E/SR.201, E/SR.202, E/SR.218 and E/SR. 219).

7. The General Assembly, at its 142nd meeting held on 24 September 1948, decided to refer this matter to the Sixth Committee for consideration and report.

8. At its 63rd meeting, held on 30 September 1948, the Sixth Committee began the consideration of this item by a general discussion, after which it decided (1) to examine, article by article, the text of the draft convention drawn up by the *ad hoc* Committee; (2) to begin with article I, leaving the preamble to be discussed last of all; and (6) to refer the decisions of the Committee with respect to the various articles and the preamble to a drafting committee charged with the preparation of a final draft.

9. The text of the draft convention prepared by the *ad hoc* Committee was examined by the Sixth Committee from its 67th to 110th meetings, held between 5 October and 9 November 1948. The text revised by the Drafting Committee was examined by the Sixth Committee from its 128th to 134th meetings, held between 29 November and 1 December 1948. Several articles, especially those of a substantive character, gaverise to prolonged discussion and divergent opinions, and a considerable number of amendments was submitted to the Committee. In the present report, only those articles are referred to which to a special degree retained the attention of the Committee.

10. In dealing with article II of the draft convention, which defines the acts of genocide, the Committee had, in particular, to resolve three important problems. In the first place, the question arose whether the acts of genocide should be explicitly enumerated in the article, as was done in the text prepared by the *ad hoc* Committee, or whether a general definition of genocide should be adopted, as proposed in an amendment submitted by the representative of France (A/C.6/211). The Committee, at its 72nd meeting, decided on the principle of enumeration, the amendment submitted by the representative of France having been withdrawn. Secondly, the question arose whether political groups should be included in the groups to be protected by the convention, as proposed by the *ad hoc* Committee, or whether these groups should be excluded from the article. At its 75th meeting, the Committee decided to retain political groups, the vote being 29 in favour to 13 against, with 9 abstentions.[1] Thirdly, the question arose whether, as motives of the acts of genocide, the Committee should retain the words "on grounds of the national or racial origin, religious belief, or political opinion of its members", proposed by the *ad hoc* Committee. This was settled when the Committee, at its 77th meeting, by 27 votes to 22, with 2 abstentions, adopted an amendment submitted by the representative of Venezuela (A/C.6/231) whereby the phrase in question was deleted and the words "as such" added after the word "group", whereafter the first part of article II came to read as follows:

"In this Convention genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, political or religious group as such:"

During the discussion of the various categories of acts constituting genocide, the representative of China called the attention of the Committee to the desirability of including acts of genocide committed through the use of narcotics. This was made possible when the Committee, at its 81st meeting decided to insert in sub-paragraph 2 the words "or mental", whereby the text in question came to read: "Causing serious bodily or mental harm to members of the group".

At its 82nd meeting, the Committee adopted, by 20 votes to 13, with 13 abstentions, an amendment submitted by the representative of Greece (A/C.6/242) to include as point 5 in the acts of genocide the act of forcibly transferring children from one group to another.

11. Article III of the draft convention, which dealt with "cultural" genocide, gave rise to a discussion on the question whether this form of genocide should be covered by the convention. At its 83rd meeting the Committee decided, by 25 votes to 16, with 4 abstentions, not to include provisions relating to cultural genocide in the convention. It was pointed out, however, by several representatives that, in expressing their views on the retention or suppression of article III, no position was taken on the principle of cultural genocide, and that action to protect against this form of genocide might more appropriately be taken within the sphere of human rights.

12. With respect to article IV of the draft convention, which listed the different acts to be punished, prolonged debates took place, particularly on the question of the retention or suppression of sub-paragraph (c) providing that "direct incitement in public or in private to commit genocide shall be punishable whether such incitement be successful or not". At its 85th meeting, the Committee rejected, by 27 votes to 16, with 5 abstentions, an amendment submitted by the representative of the United States of America (A/C.6/214) to delete this sub-paragraph. On the other hand, the Committee decided at the same meeting to delete both the words "in private" and the words "whether such incitement be successful or not" from the original text.[2]

13. At its 82nd meeting, the Committee took up article V, dealing with the authors of the crime of genocide. It examined in the first place the amendment submitted by the representative of the Union of Soviet Socialist Republics (A/C.6/215/Rev. 1 to add to this article a second paragraph to read as follows: "Command of the law or superior orders shall not justify genocide". This amendment was rejected by 28 votes to 15, with 6 abstentions. The Committee then discussed the terminology to be used in order to describe adequately the authors of the crime of genocide. Whereas the expression used in the original French text, *"des gouvernants, des fonctionnaires ou des particuliers"*, was found satisfactory and consequently retained by the Committee, it was pointed out by several representatives that the expression "Heads of State" used in the English text went beyond the French expression *"gouvernants"* as it would appear to include Heads of State of constitutional monarchies who, according to the Constitution of their country, enjoyed immunity and could not, for that reason, be brought to trial before a national court. At its 95th meeting the Committee therefore adopted, by 31 votes to 1, with 11 abstentions, an amendement submitted by the representative of the Netherlands (A/C.6/253) and amended by the representative of Siam, whereby the English text came to read "constitutionally responsible rulers, public officials or private individuals".[3] Finally, the Committee rejected, at its 96th meeting, an amendment submitted by the representative of Syria (A/C.6/246) which would have included in the article as authors of genocide also *de facto* Heads of State and persons having usurped authority. It was felt that such persons already came within the scope of article V.

14. Article VII of the draft convention provoked a lengthy discussion. As drafted by the *ad hoc* Committee, this article provided that persons charged with genocide should be tried by a competent tribunal of the State in the territory of which the act was committed *or* by a competent international tribunal. At its 98th meeting the Commitee, by 23 votes to 19, with 3 abstentions, decided to delete the reference in the text to trial before an international tribunal.[4] On the other hand, the Committee, at its 99th meeting, adopted a joint draft resolution submitted by the representatives of the Netherlands and Iran (resolution B), by which resolution the International Law Commission is invited to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction would be conferred upon that organ by international conventions.

15. In article X of the draft convention as drafted by the *ad hoc* Committee, it was laid down that disputes relating to the interpretation or application of the convention should be submitted to the International Court of Justice, provided that no dispute should be submitted to the Court involving an issue which had been referred to and was pending before, or had been passed upon by, a competent international criminal tribunal. At its 104th meeting the Committee adopted,

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[1] This decision was later reversed: see paragraph 21, below.

[2] The representative of Sweden made the following statement with regard to article IV:

"The discussion at the beginning of this meeting seems to me to have shown that the significance of the terms corresponding to the French and English expressions here in question—incitement, conspiracy, attempt, complicity, etc.—is subject to certain variations in many systems of criminal law represented here. When these expressions have to be translated in order to introduce the text of the Convention into our different criminal codes in other languages, it will no doubt be necessary to resign ourselves to the fact that certain differences in meaning are inevitable. It would, therefore, be advisable to indicate in the Committee's report that article IV of the Convention does not bind signatory States to punish the various types of acts to a greater extent than the corresponding acts aimed at the most serious crimes, as, for example, murder and high treason, already recognized under national laws.

"I will not enter here into the details of Swedish legislation which, moreover, does not present too great difficulties in this respect, but I find it necessary to formulate, somewhere, my reservation on this subject."

[3] The following statement was made by the representative of Sweden with regard to the question of responsibility of Members of Parliament:

"I must point out that the discussion that has taken place has in no way clarified the position of Members of Parliament under the article we have just adopted. This question raised by the Swedish delegation consequently remains unanswered. For our part, we conclude that no absolute obligation could be imposed by article V in this regard."

[4] Article VII, which became article VI in the final text, was later revised by the Committee: see paragraph 22 below.

however, in substitution for this article, a joint amendment submitted by the representatives of the United Kingdom and Belgium (A/C.6/258), and amended by the representative of India, according to which any dispute between the Contracting Parties relating to the interpretation, application or fulfilment of the convention, including disputes relating to the responsibility of a State for any of the acts enumerated in articles II and IV, should be submitted to the International Court of Justice, at the request of any of the Contracting Parties.

At its 105th meeting, the Committee adopted, as the second paragraph of article X,[5] an amendment submitted by the representative of Australia (A/C.6/265) providing that, with respect to the prevention and suppression of acts of genocide, a party to the convention may call upon any competent organ of the United Nations to take such action as may be appropriate under the Charter of the United Nations.

16. A new article dealing with the application of the convention to dependent territories was proposed by the representative of the United Kingdom as well as by the representative of the Ukrainian Soviet Socialist Republic. The amendment of the United Kingdom (A/C.6/236) provided that the application of the convention might, by a notification to the Secretary-General, be extended to all or any of the territories for the conduct of whose foreign relations the Party in question is responsible. The amendment of the Ukrainian Soviet Socialist Republic (A/C.6/264) provided that the convention should apply equally to the territory of the Contracting Parties and to all territories in regard to which they perform the functions of the governing and administering authority (including Trust and other Non-Self-Governing Territories). At its 107th meeting, the Committee rejected the Ukrainian amendment by 19 votes to 10, with 14 abstentions, but adopted the United Kingdom amendment by 18 votes to 9, with 14 abstentions. The Committee also adopted, at its 108th meeting, a draft resolution presented by the representative of Iran (resolution C), recommending Members of the United Nations administering dependent territories to take such measures as are necessary and feasible to enable the provisions of the convention to be extended to those territories as soon as possible.

17. After having disposed of the final clauses in the draft convention of the *ad hoc* Committee (articles XI–XIX) the Committee, at its 110th meeting, took up the question of the preamble of the convention and adopted, by 38 votes to 9, with 5 abstentions, a text proposed by the representative of Venezuela (A/C.6/261).

18. At its 104th meeting, held on 13 November 1948, the Sixth Committee appointed a drafting committee consisting of the representatives of Belgium, China, Cuba, Egypt, France, Poland, Union of Soviet Socialist Republics, United Kingdom, and United States of America. The membership of the Committee was later increased from nine to 13 by the addition of the representatives of Australia, Brazil, Czechoslovakia and Iran. As the representative of Cuba was unable to take part in the work, the Committee appointed the representative of Uruguay to take his place. To the Drafting Committee were referred the text of the articles of the draft convention, the preamble, and the two resolutions dealing with the study of the question of an international jurisdiction and with the application of the convention on genocide with respect to dependent territories.

19. The Drafting Committee submitted, on 23 November 1948, its report to the Sixth Committee (A/C.6/288). In this report the Drafting Committee recommended to the Sixth Committee the adoption of three draft resolutions: (A) a draft resolution, recommending the adoption by the General Assembly of the draft convention on genocide; (B) a draft resolution dealing with the study by the International Law Commission of the question of an international criminal jurisdiction (A/C.6/271); (C) a draft resolution dealing with the application of the convention on genocide with respect to dependent territories (A/C.6/272).

20. The report of the Drafting Committee and the revised texts submitted by it were considered by the Sixth Committee from its 128th to its 134th meetings. Amendments to the revised text of the draft convention were submitted by the representatives of the United States of America (articles III and VI, A/C.6/295) and India (articles II, VI, IX, and XVII, A/C.6/299). Also, a joint amendment was introduced by the representatives of Belgium, United Kingdom and United States of America (article IX, A/C.6/305). In addition, several verbal amendments were made to the articles to which formal amendments had been presented.

21. At the 128th meeting of the Committee, a proposal was made by the representatives of Egypt, Iran and Uruguay to re-examine the question of excluding "political groups" in article II of the convention. Having heard a statement by the representative of the United States of America in favour of such exclusion the Committee decided by a two-thirds majority vote of 26 to 4, with 9 abstentions, to reconsider this question. Following this, the Committee, by a second vote of 22 to 6, with 12 abstentions, decided to exclude political groups from the groups protected by article II.

22. A redrafting of article VI, dealing with the question of jurisdiction, was discussed during the 129th and 130th meetings of the Committee. The Committee decided first by a two-thirds majority of 33 to 9, with 6 abstentions, to reconsider the article. It adopted next, by 29 votes to 9, with 5 abstentions, a revised text of the United States amendment to article VI, submitted by the representative of France and drawn up in consultation with the representatives of Belgium, France and the United States of America. By this text the following words were added at the end of article VI: "or by such international penal tribunal as may have jurisdiction with respect to such Contracting Parties as shall have accepted the jurisdiction of such tribunal."[6]

23. At its 133rd meeting the Committee proceeded to vote on the three draft resolutions contained in document A/C.6/289. By 30 votes to none, with 8 abstentions, the Committee adopted draft resolution A with the annexed draft convention as amended by the Committee. By 27 votes to 5, with 6 abstentions, the Committee adopted draft resolution B. Finally, the Committee, by 29 votes to none, with 7 abstentions, adopted draft resolution C.

24. At its 131st meeting, the Committee had agreed to insert in its report to the General Assembly the substance of an amendment to article VI submitted by the representative of India, according to which nothing in the article should affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State. Following this, the representative of Sweden had requested that the report should also indicate that article VI did not deprive a State of jurisdiction in the case of crimes committed against its nationals outside national territory. After some discussion of the questions raised in this connexion, the Committee, at its 134th meeting, adopted, by 20 votes to 8, with 6 abstentions, an explanatory text for insertion in the present report.[7]

25. The Committee therefore recommends for adoption by the General Assembly the following three resolutions:

PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

A. RESOLUTION RELATING TO THE ADOPTION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE, AND TEXT OF THE CONVENTION

*The General Assembly approves* the annexed Convention on the Prevention and Punishment of the Crime of Genocide and proposes it for signature and ratification or accession in accordance with its article XI.

*Article XIII*

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy of it to each Member of the United Nations and to each of the nonmember States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

*Article XIV*

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

*Article XV*

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

*Article XVI*

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

*Article XVII*

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(*a*) Signatures, ratifications and accessions received in accordance with article XI;

(*b*) Notifications received in accordance with article XII;

(*c*) The date upon which the present Convention comes into force in accordance with article XIII;

[5] By the rearrangement and renumbering of the articles decided upon by the Drafting Committee, the second paragraph of article X became article VIII of the final text.

[6] The text reads as follows:

"The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

[7] For reservations made by some representatives with respect to the draft convention, see the summary records of the 132nd and 133rd meetings of the Committee.

(*d*) Denunciations received in accordance with article XIV;

*Article VI*

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

*Article VII*

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

*Article VIII*

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

*Article IX*

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

*Article X*

The present Convention, of which the Chinese, English, French, Russian, and Spanish texts are equally authentic, shall bear the date of . . .

*Article XI*

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article XII*

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

ANNEX: CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

*The Contracting Parties, having considered* the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

*Recognizing* that at all periods of history genocide has inflicted great losses on humanity; and

*Being convinced* that, in order to liberate mankind from such an odious scourge, international co-operation is required;

*Hereby agree as hereafter provided:*

*Article I*

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

*Article II*

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) Killing members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

(*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(*d*) Imposing measures intended to prevent births within the group;

(*e*) Forcibly transferring children of the group to another group.

*Article III*

The following acts shall be punishable:

(*a*) Genocide;

(*b*) Conspiracy to commit genocide;

(*c*) Direct and public incitement to commit genocide;

(*d*) Attempt to commit genocide;

(*e*) Complicity in genocide.

*Article IV*

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

*Article V*

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

(*e*) The abrogation of the Convention in accordance with article XV;

(*f*) Notifications received in accordance with article XVI.

*Article XVIII*

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States contemplated in article XI.

*Article XIX*

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

B. *Resolution relating to the study by the International Law Commission of the question of an international criminal jurisdiction*

*The General Assembly,*

*Considering* that the discussion of the Convention on the Prevention and Punishment of the Crime of Genocide has raised the question of the desirability and possibility of having persons charged with genocide tried by a competent international tribunal,

*Considering* that, in the course of development of the international community, there will be an increasing need of an international judicial organ for the trial of certain crimes under international law,

*Invites* the International Law Commission to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction will be conferred upon that organ by international conventions;

*Requests* the International Law Commission in carrying out this task to pay attention to the possibility of establishing a Criminal Chamber of the International Court of Justice.

C. *Resolution relating to the application of the Convention on the Prevention and Punishment of the Crime of Genocide with respect to dependent territories*

*The General Assembly* recommends that Parties to the Convention on the Prevention and Punishment of the Crime of Genocide which administer dependent territories, should take such measures as are necessary and feasible to enable the provisions of the Convention to be extended to those territories as soon as possible.

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## THE IMPEACHMENT OF FEDERAL JUDGES: A HISTORICAL OVERVIEW

Mr. ERVIN. Mr. President, the North Carolina Law Review for December 1970 carried an article by FRANK THOMPSON, Jr., a Member of the U.S. House of Representatives, and Daniel H. Pollitt, professor of law of the University of North Carolina School of Law, entitled "Impeachment of Federal Judges: An Historical Overview." This article merits the thoughtful attention of all the Members of Congress who are concerned with the provisions of the Constitution designed to secure the independence of the Federal judiciary.

During the last session of Congress, former Senator Joseph D. Tydings, of Maryland, introduced S. 1506, a bill based upon the theory that Congress has the power to define the words "good behavior" as used in the provision of the Constitution defining the tenure of Federal judges, and by virtue of such power can provide for the removal of Federal judges for any act or omission which Congress declares to be bad judicial behavior.

I had the abiding conviction that the Tydings' bill was inconsistent with the constitutional provisions designed to secure the independence of the Federal judiciary and for that reason was both unwise and unconstitutional. During the past year, the Subcommittee on Separation of Powers, of which I am honored to serve as chairman, conducted extensive hearings on the subject of the independence of the Federal judiciary.

The article by Representative THOMPSON and Professor Pollitt is in substantial agreement with the conclusions engendered by the hearings conducted by the Subcommittee on Separation of Powers; for this reason I ask unanimous consent that it be printed in the RECORD.

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

IMPEACHMENT OF FEDERAL JUDGES: AN HISTORICAL OVERVIEW

(Frank Thompson, Jr.* and Daniel H. Pollitt†)

"The Place of Justice is an hallowed place, and therefore ought to be preserved without scandal and corruption." These were the words of Francis Bacon, philosopher, scientist, and the most gifted of the English Renaissance men. But in his capacity as Lord Chancellor, he came a cropper. In 1621, the highest judicial officer in England was impeached for accepting bribes from litigants—sometimes from litigants on both sides of the case—and his only defense was that he never gave the briber his due unless he deserved it on the merits. Bacon was

Footnotes at end of article.

charged by the House of Commons, found guilty by the House of Lords, and sentenced to imprisonment in the Tower "during the King's pleasure." King James liberated him from the prison within a few days and gave him a full pardon. But Bacon never regained his lost glories. In 1626 he contracted a cold while stuffing a goose with snow in order to study the effects of refrigeration on putrefaction. The exposure proved fatal to both.[3]

The Bacon impeachment illustrates the problem raised by the Roman philosopher Juvenal: *Quis quatodiet ipsos custodes*, or, who is to judge the judges. The matter was debated in the Philadelphia Constitutional Convention when John Dickinson proposed that federal judges should be removed from office on petition to the President by both the House of Representatives and the Senate. This practice was then in effect in England and in seven states, but it was decisively rejected by the Founding Fathers on the theory that it would make the Judiciary dangerously dependent upon the whim of the current legislatures.[2] Instead, the Constitutional Framers provided that federal judges "shall hold their offices during good behavior" and at a salary not subject to cut by the Congress.[3] Like all other civil officers of the United States, the judges were made subject to removal from office "on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."[4] Moreover, the Framers deliberately created a complicated and cumbersome process for the removal of federal judges to prevent hasty, unthinking action.

The House of Representatives has "the sole power of impeachment"[5] and plays a role roughly comparable to that of a grand jury. Impeachment is initiated by a proposed resolution to investigate the conduct of a judge.[6] If the resolution is adopted, the matter is referred to a committee (usually, but not always, the Judiciary Committee) for investigation.[7] If the investigating committee finds the evidence sufficient, it may issue a report favoring impeachment. The report is then voted up or down by the whole House.[8] If the House votes impeachment, it notifies the Senate and appoints "managers" to argue the case for the House before the Senate.[9]

The Constitution delegates to the Senate "the sole power to try all impeachments";[10] and the Senate acts much like any court, hearing evidence first from the prosecution and then from the defense.[11] Witnesses are sworn, examined, and cross-examined;[12] and at the close of the trial the Senate votes on each article of impeachment separately. A two-thirds vote on any article by the Senators then present is necessary to convict.[13]

If the Senate votes in favor of impeachment, the only permissible judgment extends no further than "removal from office" and "disqualification to hold and enjoy any office of honor" under the United States. But the person so convicted remains liable to indictment, trial, judgment, and additional punishment by other tribunals "according to law."[14]

William O. Douglas is the latest federal judge put to this gauntlet. On April 15, 1970, Congressman Gerald R. Ford of Michigan opened the attack on the Supreme Court Justice with a four-pronged charge.[15] The first concerned Mr. Justice Douglas' associations with Ralph Ginzburg, the publisher of magazines described by Congressman Ford as "not commonly found on the family coffee table." In 1963 Ginzburg had been tried and convicted of sending an "obscene" publication named *Eros* through the mails.[16] Justice Douglas was one of the four justices who dissented from the conviction.[17] This was in 1966. In 1969, Justice Douglas received $350.00 from *Avant Garde* magazine for an article he wrote on "Appeal of Folk Singing." *Avante Garde* is also published by Ralph Ginzburg. But there is more, according to the Republican House Leader. Ginzburg had another magazine called *Fact* and during the 1964 Presidential Campaign, *Fact* ran an article to the effect that Barry Goldwater had a "severely paranoid personality and was psychologically unfit" to be President.[18] After the campaign Goldwater sued Ginzburg for libel and recovered a verdict of $75,000. Ginzburg appealed to the Supreme Court, and Justice Douglas was one of the dissenters who would have ruled in favor of Ginzburg on the theory that the Constitutional guarantees of free speech and free press are absolute.[19] This was in 1970. Congressman Ford finds fault in the failure of Mr. Justice Douglas to disqualify himself in the Goldwater-Ginzburg controversy because of his "substantial interest" in the outcome.[20]

The second prong of the attack on Justice Douglas also concerned his publications: this time, a 97-page book called *Points of Rebellion*. Congressman Ford objected because the book is "a fuzzy harangue evidently intended to give historic legitimacy to the militant hippie-yippie movement."[21] Congressman Ford also found it offensive that "the most extreme excerpts from the book" were republished in the April 1970 issue of *Evergreen* magazine in company with "shocking" arty nudes of the kind "the U.S. Supreme Court's recent decisions now permit to be sold to your children and mine on almost every newsstand."[22]

The other two grounds for attack concerned Justice Douglas' associates. Justice Douglas, until recently, had received $12,000 a year as chairman of the Parvin Foundation, a tax-exempt charitable organization established to aid in the education of developing young leaders in Latin America by providing them with scholarships for study in the United States. This association between Justice Douglas and the Foundation is well and good on its face, but the Foundation was financed by Albert Parvin who operated hotels and gambling casinos in Las Vegas. According to Mr. Ford, the ties of Mr. Parvin with "the international gambling fraternity never have been sufficiently explored."[23]

Finally, Congressman Ford charged that Justice Douglas is a "long time consultant" and "member of the board of directors" of the Center for the Study of Democratic Institutions. The "offense" here is that the Center is headed by Dr. Robert Hutchins, the former President of the University of Chicago, and that in 1965 the Santa Barbara Center "sponsored and financed the National Conference for New Politics which was, in effect," the Congressman surmised, "the birth of the New Left as a political movement."[24]

These four charges are not offensive to most Americans, even if true. Most certainly, they do not constitute "Treason, Bribery, or other High Crimes and Misdemeanors." This latter fact is admitted by Congressman Ford, whose entire argument is that an offense need not be indictable to be impeachable.[25]

The term of federal judges, recites the Congressman, is "during good behaviour"; and when behavior ceases to be "good," the right to hold judicial office ceases also. Further, contends the Congressman, "good behaviour" (and an impeachable offense) "is whatever a majority of the House of Representatives considers [it] to be at a given moment in history"; and conviction in the Senate should result "from whatever offense or offenses two-thirds of that body considers to be sufficiently serious to require removal of the accused from office."[26]

Congressman Ford reached his conclusion from a study of "our history of impeachments."[27] This "history," however, does not support his conclusion, whether one considers only the eight judges who have been impeached in the House and tried in the Senate, or the much larger number of federal judges whose fates have been decided in the House of Representatives without trial in the Senate.

THE EIGHT COMPLETED IMPEACHMENT CASES

Eight federal judges have been impeached, or charged, by the House of Representatives and tried by the Senate. Four were acquitted, and four were convicted. The first case was in 1804; the most recent, in 1936.[28] The first two cases—those of John Pickering and Samuel Chase—must be considered together and in the light of the political events of the period.

When the Jeffersonian Republicans won the Presidency and a majority in both Houses of the Congress in 1802, they were bent upon a "political purge" of the federal judiciary, and not without cause. President John Adams and the Federalist majority in the House of Representatives and the Senate had sought to win the election by enactment and rigorous enforcement of a Sedition Law that made it illegal to criticize the United States or the incumbents in office.[29] Matthew Lynn, a Vermont Congressman, was the first victim of this law. He was sentenced to a fine and four months in jail because of a political speech in which he accused President Adams of having "an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice."[30] The editor of the Benningtion Gazette sought to raise funds to pay the fine by a lottery and advertised with a caption addressed "to the enemies of political persecutions in the western district of Vermont."[31] For this activity, he was indicted for sedition, convicted, and sentenced to two months' imprisonment. A New York state senator was indicted and arrested under the Alien and Sedition Law because he circulated a petition to Congress among his neighbors asking for repeal of the law.[32] Jeffersonian candidates and supporters felt the fangs of this law deeply. Indeed, things got so bad under this law that when President Adams campaigned in Newark and the New Jersey local artillery company fired a salute in his honour, a by-stander was convicted for an idle remark that he "wished the wadding from the cannon had been lodged in the President's backside."[33]

The Jeffersonians disliked the law; they disliked even more the men who enforced the law: the Federalist United States Marshals,[34] who selected juries of sympathizers; the Federalist United States Attorneys, who prosecuted these cases with unusual zeal; the Federalist Judges, who presided in partisan manner. They especially disliked Justice Samuel Chase because of his repeated jury charge that "if a man attempts to destroy the confidence of the people in their officers, he effectually saps the foundation of the government."[35] This charge was first announced in the trial of a Pennsylvania editor who was convicted because of an editorial asserting that President Adams had "saddled [us] with the expense of a permanent navy [and] threatened [us] with the existence of a standing army."[36]

Jefferson and his Republicans had other grievances against the Federalists. Jefferson had promised the position of Chief Justice of the United States Supreme Court to his political lieutenant Spencer Roane of the Virginia Supreme Court. But before Jefferson took office, Chief Justice Oliver Ellsworth, a staunch but aging Federalist from Connecticut, retired prematurely creating the opportunity for President Adams to appoint his Secretary of State John Marshall to this post.[37]

And there was more. After the political sweep of the Republicans at the polls, the lame-duck Federalist Congress met and (1) created sixteen federal circuit court judgeships for defeated Federalist politicians,[38] (2) created forty-two justice of the peace positions in Washington, D.C. for lesser Federalist office holders,[39] and (3) reduced the size of the Supreme Court from six to five members[40] (as of the next vacancy) to deprive Jefferson of an appointment for the foreseeable period of his Presidency.[41]

Footnotes at end of article.

Jefferson thundered that, "The Federalists have retired into the judiciary" and "from that battery all the works of republicanism are to be beaten down." [42] He would have none of this; and when his party assumed office, President Jefferson pardoned all persons convicted under the Alien and Sedition Law and fired all the United States Marshals and United States Attorneys who had enforced it.[43] Meanwhile, his Congress repealed the Sedition Law and the Judiciary Act of 1801 and thereby the judgeships created for the defeated Federalist opponents.[44] When Chief Justice Marshall threatened to declare the repeal of the 1801 Judiciary Act unconstitutional [45] as an illegal short-cut of the impeachment process,[46] the Jeffersonian Congress cancelled the terms of the Supreme Court for the next fourteen months.[47] During this interval, the Jeffersonian Congress went after the federal judiciary via the impeachment process, with Marshall himself as the ultimate target.[48] The impeachment proceedings against John Pickering and Samuel Chase are part of this tumultuous, explosive political partisanship.

*John Pickering*, judge of the federal district court in New Hampshire, has the dubious distinction of being the first judge to be impeached by the House, tried by the Senate, and removed from office—and for reasons unrelated to "Treason, Bribery, and other High Crimes and Misdemeanours." Senator William Giles of Virginia, the Jeffersonian leader in the Senate, was quite blunt on this score. He told his Federalist colleagues, in language not unlike that of Congressman Gerald Ford, that "We want your offices, for the purpose of giving them to men who will fill them better." [49] His announced theory was that removal by impeachment is nothing more than a declaration by Congress that, "You hold dangerous opinions, and if you are suffered to carry them into effect you will work the destruction of the Nation." [50] Federalist Senators objected that this interpretation of the Constitution's impeachment clause would make our "judges as independent as spaniels";[51] but they argued in vain. Giles insisted, with majority backing, that federal judges were removable "[f]or any cause that a dominant political party considered to be sufficient." [52]

The choice of Judge Pickering as the first target in the Jeffersonian onslaught against the federal judiciary was excellent political strategy. The unfortunate old man had been an insane drunkard for some time and was clearly unable to perform his duties as a federal judge. The Judiciary Act of 1801 had provided for such cases as Pickering's by authorizing the circuit judges to appoint one of their own members to exercise the functions of any district judge who became incapacitated.[53] Under this Act, the circuit judges determined that Pickering was indeed incapacitated and assigned Circuit Judge Jeremiah Smith to take over his duties. With the repeal of the 1801 Judiciary Act and the elimination of the circuit judges, Pickering resumed his judicial functions.[54] His family and friends urged that he resign, but Portsmouth Federalist leaders advised strongly against a resignation as the "successor will be a man whom we cannot approve" referring to John Samuel Sherburne, the newly appointed Republican United States Attorney.[55]

So Judge Pickering stayed on the bench, and one of the first cases to reach him involved the ship *Eliza*, seized by the Republican custom officials for smuggling. The ship belonged to Eliphalett Ladd, a prominent Federalist merchant, who filed suit for its return.[56] On the opening day of trial, Pickering came to the courthouse thoroughly intoxicated. He staggered to the bench and ordered the court to open. Then, apparently feeling lonely, he ordered a young lawyer named John Wentworth to sit beside him. The startled attorney demurred, and the judge started down from the bench to cane him. But seeing a former British Naval officer among the spectators, he ordered him to sit and give advice on these nautical matters. Thus fortified against the "Jacobins," Pickering roared, "Now damn them, we will fight them" and ordered the parties to proceed.

United States Attorney John Sherburne began to read the pleadings, but the Judge interrupted stating that he had heard enough and would decide the case in four minutes. He suddenly ordered that the ship *Eliza* be returned to his long-time political ally Eliphalett Ladd. Attorney Sherburne protested that his witnesses had not yet been allowed to testify, and the Judge replied, "Very well, we will hear everything—swear every damn scoundrel that can be produced—but if we sit here four thousand years the ship will still be restored." A few minutes later, however, he shut off the witness and ordered the case dismissed. When the Government sought an appeal order, the trial judge refused to sign one although the law clearly commanded that he do so.[57]

The impeachment charges against Pickering related to his above conduct and rulings. Pickering did not appear at the Senate trial, but his son did, and he moved to dismiss the charges because they did not allege "treason, bribery, or other high crimes and misdemeanors," and in the alternative he argued that his father lacked the mental capacity to have the "intent" to commit a crime.[58] The Senate rejected the underlying theory behind this defense and ruled by a party-line vote of nineteen Republicans against seven Federalists that federal judges were removable from office for any reason that the dominant polical party considered to be sufficient. Five Republican Senators refused to convict; but rather than offend their party, they left the Senate chamber during the vote.

Thus, a partisan body of Senate judges gave to poor, crazy John Pickering the unwelcome distinction of becoming the first victim of the first judicial purge in our nation's history. The impeachment would have seemed less brutal if its innocent victim had not been one of New Hampshire's most distinguished citizens. The author of her constitution, a revolutionary patriot, Pickering had been universally admired until he became incapacitated at the end of his long public career.[59]

The fact that after Pickering's impeachment the Senate quickly reversed its position on the underlying Constitutional issues has made that trial a minor development in a continuing story rather than the historic landmark it seemed at the time. John Pickering was convicted by the Senate on March 12, 1804. Within an hour, the House voted to impeach Samuel Chase.

*Samuel Chase*, a Baltimore lawyer, was aggressive and militant in everything he did. As a young man, he opposed the British Stamp Act and led the Sons of Liberty on midnight raids against the public offices where they rifled the files, destroyed the records, and set fire to the stamps. His militant opposition to British rule gave him a notoriety which resulted in his election to the First Continental Congress where he championed the Declaration of Independence and became one of its signers. He was a leader of the Maryland Convention that ratified the Constitution, and in 1796, President Washington appointed him an Associate Justice of the Supreme Court of the United States.[60]

The Supreme Court did not have a busy docket in the early days of the Republic. It met for two brief terms a year in Washington, and during the remaining months the six Justices "rode circuit" sitting as circuit court judges with jurisdiction to preside at the trial of important cases and hearing appeals from district court judges in lesser matters.

Justice Chase was a terror on the bench. He "bullied counsel, browbeat witnesses, ruled juries,"[61] and with his sallies from the bench "brought down the laughter of the spectators" on helpless and unfortunate defense counsel.[62] Even his friend John Marshall admitted on cross-examination during the Senate impeachment trial that Chase, as a judge, was "tyrannical, oppressive, and overbearing."[63]

Marshall was testifying about the conduct of Chase during the trials under the Alien and Sedition Laws: it was there that Chase proved most obnoxious to the Jeffersonians because of his vigorous and overbearing enforcement of these laws during the campaign against John Adams.

He presided at the trial of Thomas Cooper, the editor of the *Sunbury Gazette* in Pennsylvania, and directed the jury to convict on the theory that any criticism of public officials "effectually saps the foundation of the government."[64] He presided at the trial of Fries, a Pennsylvania farmer who had refused on grounds of principle to pay certain federal taxes. Chase charged that this was "treason" and sentenced the defendant to be "hanged by the neck until dead." The resulting Republican uproar resulted in a Presidential pardon.[65]

Chase then went to Baltimore where he impaneled a large number of grand jurors and during the impaneling process denounced the Republican proposal for universal suffrage because it would "sink" the country "into a mobocracy, the worst of all popular governments." [66]

Chase then hurried to Richmond to preside at the trial of a noted editor named Callender who had published a tract hostile to President Adams. Chase read the pamphlet prior to trial and announced in a public coach that "he would certainly punish" the editor and "teach the lawyers of Virginia the difference between the liberty and licentiousness of the press." [67] When trial began, Chase (i) refused to excuse a juror who announced that he was morally-bound to find the defendant guilty, (ii) refused to hear distinguished witnesses offered by the defense, and (iii) throughout the trial was "tyrannical, overbearing and oppressive." [68]

Chase then went to New Castle, Delaware where he refused to dismiss a grand jury until it returned an indictment against a Jeffersonian newspaper publisher. When the grand jury refused to indict, he ordered the United States Attorney to read all back issues of the paper and report any abusive language to the jury. But that body reported that it discovered nothing "treasonable" except a brief and unpleasant reference to Chase himself. Chase let the matter drop.[69]

The impeachment charges issued by the House of Representatives against Chase related to these actions and rulings while he was on the bench. Admittedly, they did not constitute "high crimes and misdemeanors"; but Senator Giles announced here, as he had earlier in the impeachment of John Pickering, that the process of impeachment "is nothing more than an inquiry by the two Houses of Congress whether the office of any public man might not be better filled by another." [70]

The Federalists responded, as they had in the Pickering trial, that such a theory of impeachment undercut "the vital necessity of the independence of the Judiciary" and put in peril "the integrity of the whole National judicial establishment." [71]

This time they fared much better. The Republican senators who had absented themselves during the Pickering vote bolted party ranks, and the fight was over.[72] There were thirty-four senators: nine Federalists and twenty-five Republicans. Two-thirds of this number, or twenty-two votes, was necessary to convict. Six of the Republicans—mostly from the Northern and Western states—and

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the nine Federalists answered not-guilty on every article of impeachment.[73]

John Randolph of Virginia, a House manager who argued the impeachment, rushed from the scene of defeat to the floor of the House where he offered a constitutional amendment providing that the President might remove federal judges on the joint address of both Houses of Congress.[74] Congressman Micholson, another floor manager, was almost as frantic with wrath, and he followed with a proposal to amend the Constitution so that state legislatures might recall their United States Senators at will.[75] Neither proposal progressed very far, and President Jefferson remarked that "impeachment is a farce which will not be tried again." [76]

On the other side there was jubilation. As John Marshall's biographer, Albert Beveridge, put it, "[f]or the first time since Jefferson's election, the National Judiciary was rendered independent. For the first time in five years, the Federalist members of the Supreme Court could go about their duties without fear that upon them would fall the avenging blade of impeachment. . . . One of the few really great crises in American history had passed." [77]

But there was to be one more test case, that of *James Hawkins Peck*.

Freed from the threat of Congressional impeachment, the Supreme Court under John Marshall began to strengthen the powers of the central government and protect the interests of the industrial and monied classes.[78] This was at the expense of the small farmer in the South and West and required the nullification of the laws of many states. By 1825, the Supreme Court declared unconstitutional the laws of at least ten states.[79] Naturally, there was a good deal of resentment against the Supreme Court resulting with a number of "court curbing" plans.

Jefferson proposed that the Constitution be amended so that all federal judges serve an initial term of six years with the possibility of re-appointment by the President, but only with the consent of both Houses of Congress.[80]

Senator Johnson of Kentucky introduced a constitutional amendment that whenever the Supreme Court declared the laws of a state to be unconstitutional, there would be a further appeal to the United States Senate for final decision.[81] A proposal which received even more support but also failed to muster majority backing would have required the vote of five of the then seven Supreme Court justices (instead of a simple majority) to overturn a state law.[82]

It was during this period of growing antagonism toward the federal courts that James Hawkins Peck was appointed the United States District Judge for Missouri. In effect, he was the "federal presence"; however, he was disliked not only in principle, but also because of his arbitrary abuse of judicial authority.

When Judge Peck took office, he was faced with a number of suits by the early settlers of Missouri (the Upper Louisiana Territory) claiming title to large acreages under grants from the Spanish crown. The United States resisted these claims and countered that the land was part of the public domain and available for future distribution. A lawyer named Luke Edward Lawless represented many of these claimants, including the heirs of one Antoine Soulard.[83]

The Soulard case was tried first, and Judge Peck ruled for the government. He then wrote a letter to the editor of the Missouri Republican explaining the basis for his decision. Attorney Lawless promptly wrote an answering letter to a rival newspaper, the Missouri Advocate, in which he challenged the facts and legal conclusions of the judge.[84]

Judge Peck was incensed. He ordered the attorney to be arrested and brought to court, and without a trial, the judge held him in contempt. He imposed a sentence of twenty-four hours in jail and disbarment from the federal court for a period of eighteen months.[85]

Congressman John Scott of Missouri promptly presented a memorial requesting the House to inquire into the conduct of Judge Peck.[86] On April 21, 1830, the House overwhelmingly voted (123 to 49) to impeach the judge because of his "unjust, oppressive and arbitrary" contempt order.

Judge Peck might well have shown a lack of "good behaviour"; but his on-the-bench activities did not constitute "Treason, Bribery, or other high Crimes and Misdemeanors." For this reason, the Senate decided on January 23, 1831, in favor of Judge Peck by a vote of 21 guilty, 22 not guilty.[87] This was just short of a majority and far less than the two-thirds vote necessary for removal from office.

This vote did not mean that the Senate approved of what Judge Peck had done. Far from it. Within a few weeks, on February 10, 1831, the Senate enacted a bill denying federal judges the power to punish for contempt except in cases of misbehavior "in the presence of the said courts, or so near thereto as to obstruct the administration of justice. . . ." [88] This bill swept through the House and was signed into law by the President on March 2 of that year.[89]

The heirs of Antoine Soulard were also vindicated when they appealed Judge Peck's adverse decision to the Supreme Court and there won a unanimous reversal.[90] Be that as it may, the House of Representatives has never again voted impeachment against a federal judge because of his rulings or conduct on the bench. Nor has it *ever* voted to impeach a judge because of private activities or association unrelated to judicial duties unless that activity or association involved some criminal offense.

*West H. Humphreys* of the United States District Court for Tennessee was the next judge to be impeached by the House and tried in the Senate. The charge, filed in 1862, was "Treason" based on the alleged fact that he had incited "revolt and rebellion" in Tennessee "against the Constitution and Government of the United States" by "openly and unlawfully" advocating an "ordinance of secession." [91] The judge was summoned by the Senate "to appear and answer certain articles of impeachment," and upon his refusal, the Senate voted unanimously that he be removed from office. Judge Humphreys was by then serving as a judge on the "District Court of the Confederate States of America." [92]

The next four impeachment cases tried by the Senate involved allegations of "high Crimes and Misdemeanors" although all were not provable.

*Charles Swayne*, the United States Judge of the District Court in Florida, was impeached and tried in 1904. Always a vigorous and forthright person, he had been appointed by Republican President Harrison over the protest of all the Democratic members of the Senate. His job was to convict the Florida Democrats who had violated the voting rights of Republicans in the last election. He was relentless in this task, extending court sessions to bring all offenders to his bar of justice.[93]

He was equally vigorous in pursuit of his personal goals. Thus, in 1901, a number of suits were filed in Pensacola concerning title to what was known as the "Rivas Tract." One Florida McGuire was the principal plaintiff, and one Edgar was the principal defendant. Prior to trial, the lawyers for Miss McGuire requested the judge to disqualify himself because they had learned that defendant Edgar had sold part of his interest in the land to the Judge. The Judge refused the motion to excuse himself, saying that he had not purchased the land interest, but that a relative of his had done so. Later, it developed that this relative was his wife.[94]

Unwilling to try the case before Judge Swayne, the plaintiffs filed a new, but identical, suit in the state court against the old defendant Edgar with Judge Swayne added as a new defendant. They then went into the federal court to have the old case dismissed. Judge Swayne was presiding and quickly expressed his feelings about the new suit against him in the state court in Escambia County. After a few "abusive remarks," he held the attorneys guilty of contempt and sentenced them to ten days in jail, a fine of $100 each, and disbarment from the federal court for a term of two years.[95]

This abuse of judicial power, reminiscent of Judge Peck, undoubtedly fueled the flames of impeachment. But the serious charges related to various "high Crimes and Misdemeanors," namely, that the judge was not a resident of his judicial district as required by law (the Judge was a native of Delaware and lived there with his family while not holding court in Florida), that he padded his expense account (the judge admitted that he always claimed the maximum $10.00 per diem expenses whether he spent that much or not), and that he accepted favors from litigants before his court (the Judge admitted that he had accepted from a railroad, then in bankruptcy proceedings before his court, a free ride to California and back for himself, his wife, his sister-in-law, and her husband and had subsequently approved of the costs of the trip as part of the necessary expenses of operating the railroad).[96]

Judge Swayne's only defense was a legal one—that the offenses were not "impeachable." He argued, in effect, that the particular bribery, expense account padding, and failure to abide by the residence requirement were all minor or "low" crimes and misdemeanors. The Democratic House of Representatives rejected this defense and impeached by an almost solid party-line vote. The Republican Senate, also by party-line vote, acquitted on all charges.[97]

*Robert W. Archbald*, Judge of the United States Commerce Court, was impeached and convicted in 1912 on charges of "having used his judicial office and influence for his personal financial gain." [98]

Like Judge Swayne, Judge Archbald had accepted a free trip for himself and his family from a railroad then in litigation before his court. The only distinction between the two situations was that where Judge Swayne had gone to California, Archbald had made a grand tour of Europe.

There were other differences, some of which were political, between the two situations. Judge Archbald had accepted a "purse" from certain lawyers who practiced before him, and he served on a very unpopular court when the federal judiciary as a whole was under attack.

The Commerce Court of which Judge Archbald was a member was created by the Administration of President William Howard Taft to review the orders and decisions of the Interstate Commerce Commission. Increasingly, the Commerce Commission ruled against the railroads on behalf of the consumers, and just as insistently, the Commerce Court ruled against the Commission when the railroads appealed.[99]

The Commerce Court, as an institution, became the fulcrum of a bitter political controversy. Teddy Roosevelt, campaigning for the Presidency, promised to abolish the Commerce Court if elected: but the Democratic majority in Congress pre-empted this issue (and the popular appeal) by voting to abolish the court during mid-campaign.[100]

The general adverse reaction against the Commerce Court undoubtedly hurt the members of that Court, including Judge Archbald. So did the general anti-court sentiment of that period. Around the turn of the century,

Footnotes at end of article.

the Granger Movement swept through the agrarian mid-west, resulting in state legislation regulating the railroads, the graineries, and other utilities in favor of the consumer. At the same time, labor began to show its political muscle in the industrial states which was instrumental in bringing about the enactment of laws regulating child labor, maximum hours, and minimum wages for women. The federal courts, almost as matter of routine, declared all these state laws to be unconstitutional.[101]

LaFollette, Norris, Shipstead, Hiram Johnson and other progressive legislators introduced a series of anti-court constitutional amendments to reduce the terms of federal judges to a fixed number of years, to authorize their recall upon petition, and to require of the courts a two-thirds vote or more before they could declare a state law unconstitutional.

It was in this political climate that the Democrats and their Roosevelt "Bull Moose" allies in the Senate voted to affirm the impeachment charges of the House and thereby to remove Judge Archbald from his office.[102]

*Harold L. Louderbach,* Judge of the United States District Court in California, was impeached by the House of Representatives in 1932, and it is not altogether certain that the accusation met Constitutional standards. The charge against him was "favoritism in the appointment of incompetent receivers" and the "allowance of excessive fees."[103] This is not "good behavior," but is it a crime?

Judge Louderbach owed his job to Senator Samuel Shortridge, and when it came to the appointment of receivers in the bankruptcy and reorganization cases that came before him, the Judge saw to it that Samuel Shortridge, Jr., the son of the benefactor, got more than his share of the lucrative positions.[104] There was no evidence that Judge Louderbach—unlike Judge Archibald—received any direct personal financial gain from these appointments. The Senate voted to acquit.

*Halsted L. Ritter* is the last of the federal judges to be both impeached by the House and tried by the Senate. He was convicted. A successful lawyer in Denver, Ritter moved to Florida in 1925 for reasons of family health. Four years later, President Coolidge appointed him to a federal judgeship on recommendation of his Postmaster General. The appointment was opposed locally by both Republicans and Democrats.[105]

This opposition was justified. He was impeached by the House of Representatives in 1936, and the principal charges were that he participated in champertous proceedings brought before him for a cash consideration and that he prepared and filed false income tax returns. What he had done was to appoint a former law partner to a "receivership" which paid a $75,000 fee with a $4,500 kick-back and to conceal this income when filing his annual tax returns.[106]

The odd element in this case was the Senate action. Eighty-four Senators voted, which meant that fifty-six votes were needed to meet the two-thirds majority required by the Constitution in impeachment cases. This fifty-six figure was reached, but barely. Forty-nine Democratic Senators were joined by five Republicans who usually bolted party ranks—Borah of Idaho, Capper of Kansas, Cousins of Michigan, Frazier of North Dakota, and Norris of Nebraska—and by the two Senate independents—Shipstead, Farmer-Labor from Minnesota, and LaFollette, Progressive from Wisconsin.[107]

This completes the "history" of the eight federal judges impeached by the House and tried by the Senate. In 1803, Judge Pickering of New Hampshire was impeached and found guilty of conduct certainly not "good" but also not constituting "Treason, Bribery, or other high Crimes and Misdemeanors," unless blasphemy and public drunkenness fall within this category.[108] Not since that time has the Senate removed a judge from office in an impeachment trial because of lack of "good" behavior unless that behavoir was also criminal.

Supreme Court Justice Chase was acquitted by the Senate in 1804 although his behavior in presiding at the Alien and Sedition trials of his Jeffersonian opponents was "tyrannical, overbearing and oppressive."[109] District Court Judge Peck was acquitted in 1831 by the Senate although its disapproval of his abuse of the "contempt" power was written into a federal law.[110] Since 1831 almost 150 years have passed with no impeachment charges by the House because of "bad" behavior except where there was evidence of "Treason, Bribery, or other high Crimes and Misdemeanors."

West H. Humphreys was charged with "Treason" and convicted by the Senate in 1862 when the Tennessee judge threw his lot in with the Confederacy.[111] Charles Swayne, the Delaware lawyer who sat on the United States District Court in Florida, was acquitted by the Senate in 1904 on the House charges of defrauding the government with false expense accounts and accepting favors from litigants before his court.[112] Robert W. Archbald was convicted by the Senate in 1912 and removed from his judgeship on the Commerce Court for accepting cash bribes and other favors from litigants before his court.[113] Harold L. Louderbach was acquitted by the Senate in 1932 upon a finding that his judicial appointments to lucrative posts were motivated by personal gratitude to his political mentor rather than by hope of financial gain.[114] Halstead Ritter was convicted by the Senate in 1936 for accepting bribes and kick-backs and for income tax evasion,[115] certainly judicial behavior which is not good, but also clearly behavior that falls within the constitutional grounds for impeachment—"Treason, Bribery or other high Crimes and Misdemeanors."

In short, the constitutional history as reflected by the eight "completed cases" demonstrates that Congressman Ford is in error when he asserts that the Congress has authority under the Constitution to impeach Mr. Justice William Douglas (or any other judge) for whatever conduct a sufficient majority of the Congress considers to be an impeachable offense "at any given moment in history."

IMPEACHMENT CASES RESOLVED IN THE HOUSE OF REPRESENTATIVES WITHOUT SENATE ACTION

The eight impeachment cases tried by the Senate reflect merely the top of the iceberg. The qualifications of at least forty-seven other federal judges have been questioned in the House of Representatives since 1796 when impeachment charges against George Turner of the Northwest Territory were dropped on the assurance of Attorney General Harry Lee that he would initiate grand jury proceedings against the Judge.[116]

The decisions and actions of the House of Representatives in connection with these federal judges are an important part of the impeachment history and teach that the House refuses to impeach because of judicial misbehavior unless the offense charged constitutes "Treason, Bribery, or other high Crimes and Misdemeanors."

*Treason*

In 1862, Judge West Humphreys was impeached by the House and convicted by the Senate when he joined the Confederacy.[117] The only other "Treason" charge was brought against Harry Innes in 1808 on the allegation that the Kentucky federal judge had joined forces with Aaron Burr and conspired with Spain to "seduce Kentucky from the Union." The judge denied the charge, and a House Investigating Committee found him not guilty.[118]

*Bribery and financial irregularity*

Thirty-three federal judges have been charged with offenses directly involving financial corruption. Twenty-two did not accept the challenge, and their resignations ended any further inquiries by the House of Representatives.[119] Five were "censured" but not impeached,[120] four were acquitted of wrong-doing after investigation,[121] and a House committee turned the other two cases over to the Attorney General for possible criminal prosecution without impeachment recommendations.[122]

Excessive consumption of whiskey drove some of these judges into accepting bribes and kick-backs. Thus, in 1839, Judge Philip K. Lawrence of Louisiana was charged with corrupt conduct and "intemperate use of ardent spirits."[123] In 1872, Judge Mark H. Delahay of Kansas was charged with corrupt transactions and "intoxication."[124] In 1874, Judge Edward H. Durrell of Louisiana was charged with improper procurement of money and "drunkenness."[125]

In more recent periods, the judges were caught in an economic squeeze from the Crash of 1929 and could not resist the subsequent temptations that came their way. A notable example is Martin T. Manton, Chief Judge of the Second Circuit Court of Appeals.

Manton began his judicial career in 1916; at thirty-six he was the youngest federal judge in the country. In the following twenty-three years, he well justified his early appointment. His well-reasoned decisions and his articles in professional journals were cited as authority by bench and bar alike. He testified before congressional committees on complicated aspects of patent and bankruptcy law, and he was in great demand as a speaker before the American Bar Association, the Academy of Political Science, and other distinguished assemblies. Honorary degrees came from all sides: Columbia, Fordham, Manhattan, Vermont, and others. He was generally regarded by lawyers and knowledgeable lay persons as the tenth-ranking judge in the United States, a slight edge below the nine Justices on the Supreme Court.[126]

But Manton was equally active in the business world, and his holdings crashed around his head during the Great Depression. This fact did not lessen the public shock when on January 29, 1939, young Manhattan District Attorney Tom Dewey wrote the Judiciary Committee of the House of Representatives an itemized list of Judge Manton's corrupt transactions. The list included, in small part, a $12,500 kick-back from John M. McGrath, a bankruptcy receiver Manton had appointed, and bribes from litigants in cases pending before his court: $77,000 from the Dictograph Products Corporation, $250,000 from the American Tobacco Company (in the form of a loan to Manton's former legal partner), and $50,000 from Warner Brothers (in the form of a personal loan from Harry Warner).[127]

After the story broke, Judge Manton tendered his resignation to President Franklin Roosevelt who accepted it on the spot.[128] This prompt resignation avoided impeachment proceedings ("Why kick at the place where the fellow used to be?" asked Chairman Hatton Sumners of the Judiciary Committee),[129] but the State of New York was not so forgiving. Manton was tried, convicted, and sentenced to two years in Jail.[130]

The investigation of the Manton bribes and kick-backs led to the discovery of similar corruption by Judge J. Warren Davis of the Third Circuit United States Court of Appeals. Like Manton, J. Warren Davis was one of the most esteemed American jurists. Elected to the New Jersey Senate in 1911, he acted as floor leader for Governor Woodrow Wilson. When Wilson was elected President, he appointed Davis to the position of United States Attorney for New Jersey in 1913 and

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to the Court of Appeals for the Third Circuit in 1920.[131]

Davis quickly earned his laurels as a judge, but he did not do so well on the stock market. With the crash of 1929, he ended up deeply in debt (he owed $85,000 to various banks), with an expensive style of living, an annual salary of $10,000, and power to decide the financial future of desperate men.[132] This spelled trouble, and it was not long in coming.

The Fox Film Corporation was in bankruptcy, and William Fox, its founder and President, was struggling to maintain corporate control against the demands of its creditors. The plum was a juicy one, for Fox Film claimed patent rights to "talking pictures." This claim, if established, would have put Fox Film in a position to dominate the industry and William Fox back in control of Fox Film.

On five occasions from 1935 to 1939, the trial court ruled against William Fox on his various claims, and on all these occasions, the Court of Appeals reversed and ruled for him.[133] All these Court of Appeals decisions were signed by Judge Joseph Buffington who had been appointed to the bench by President Benjamin Harrison in 1892. By the time of the Fox litigation, Buffington was in his eighties, deaf, and practically blind, and he refused to have a law clerk to look up the law, read briefs, and help write decisions. The decisions favorable to Fox were signed by Buffington but were actually written, and sold, by Judge Davis.[134]

Subsequent investigations disclosed that Fox had paid Judge Davis substantial bribes in fifty and one-hundred dollar bills: once in a hallway at the corner of Twelfth and Chestnut Streets in Philadelphia, more often in the apartment of Fox's attorney Morgan S. Kaufman.[135] Kaufman knew a good thing when he saw one, and after the Fox litigation ended, he acted as counsel and go-between with Judge Davis on behalf of the Universal Oil Products Company,[136] the American Safety Table Company,[137] and other important business concerns not unwilling to spread a little cash wherever it would advance their corporate interests.

Judge William E. Clark, the third member of the Third Circuit Court of Appeals, grew suspicious of his colleagues Davis and Buffington and relayed these suspicions to the Department of Justice. On November 8, 1941, Attorney General Francis Biddle requested Congress to investigate and impeach Judge Davis.[138] Davis blocked this move with a prompt resignation and a waiver of all pension and retirement rights. He retired to his Norfolk, Virginia, childhood home and died a broken man in 1945.

Unlike Manton and Davis, Judge Albert W. Johnson chose to bluff out the corruption charges until the verdict was certain.

Born in 1872, Johnson began his adult life as a school teacher in Lewisburg, Pennsylvania, and "read law" at night without the benefit of formal legal training. Admitted to the bar in 1898, he became active in public affairs. He was elected on several occasions to the state legislature [139] and served as the national president of the Patriotic Orders of the Sons of America. His activities reflected a long time dual interest: vigorous opposition to subversive movements and equally vigorous efforts to preserve the sanctity of the Sabbath.[140]

Johnson was appointed to the United States District Court for the Middle District of Pennsylvania by President Calvin Coolidge in 1925 over the strenuous objections of the local bar associations and the local press.[141]

Criticism soon erupted again when, in 1931, the *Philadelphia Inquirer* disclosed that Judge Johnson had appointed his son-in-law Carl Schug as trustee in eleven of the first twenty bankruptcy cases filed that year.[142] Subsequent newspaper stories revealed that the Judge and his sons owned an exclusive hunting club called the Tea Springs Lodge. The high initiation and annual dues were apparently worth the price, for eighty-two per cent of the members were appointed by Judge Johnson to lucrative posts as appraisers, receivers, trustees, attorneys for trustees, special masters, or referees in bankruptcy.[143]

Subsequent investigations came hot and heavy. In 1933, Attorney General Homer Cummings announced a federal inquiry into the "receivership racket" in Pennsylvania.[144] In 1934, a Pennsylvania grand jury looked into the matter, and in 1936 and again in 1939, there were federal probes of his judicial behavior. In 1941, Judge Albert L. Watson, who sat on the same court with Judge Johnson and who was subsequently impeached, officially complained to the Court of Appeals that Judge Johnson was "hogging" the bankruptcy business.[145]

Judge Johnson miraculously survived all this, but he came a cropper in 1943 when the United States prosecuted a clothing manufacturer for stealing cloth from the government.

The government attorneys had an "air tight" case, so they were not worried when the Judge's son was associated with the defense. But they were dismayed at the subsequent shuttlecock exchange between the judge and jury. The judge charged the jury to find the defendant innocent of all charges. The jury refused this instruction and found the defendant guilty. Judge Johnson refused to accept this verdict, berated the jury, and sent it back to the jury room with instructions to bring in a verdict of not guilty. The jury compromised this time and found the defendant guilty on some counts of the indictment and not guilty on others. Then came the sentence. A local reporter predicted to the government attorneys that the defendant would withdraw the motion for a new trial then pending, throw himself on the mercy of the court, and that Judge Johnson would do no more than impose a nominal fine. This came to pass and the government attorneys returned to Washington boiling.[146]

Congressman Sautoff of Wisconsin was informed of the case and discussed it on the floor of Congress. A few days later the House passed a resolution authorizing an investigation by the House Judiciary Committee. Judge Johnson then met his match, for the investigation was conducted by Congressman (later Senator and Vice-Presidential candidate) Estes Kefauver of Tennessee.

Kefauver went at it with vigor and, after lengthy hearings into all phases of the Judge's activities, issued a scathing report. He concluded that Judge Johnson had "notoriously engaged in the barter and sale of court offices" and that his "decisions, decrees, orders and rulings commonly were sold for all the traffic would bear." [147] The clothing manufacturer who got off (despite his guilt of wartime theft of scarce materials) with a small fine was merely small potatoes. The Bethlehem Steel Company, for one of many given examples, had paid Judge Johnson $250,000 for a decision in a bankruptcy case where it, as a creditor, wanted a favored priority position over other creditors.[148]

The Kefauver report showed that very little had escaped the avarice of Judge Johnson. He owned an apartment house where all the court attaches were required to live at rents higher than those paid by other tenants for similar quarters. He even required his government secretary to begin her day's work cleaning and dusting his home and preparing the Judge's breakfast.[149]

Judge Johnson resigned after the report was issued, and the House Committee voted to let the matter drop because the "Senate is engaged in the consideration of so many issues vital to the welfare of the nation."

The most baffling aspect of the whole situation is that Judge Johnson was elected president of the local bar association when he returned to the private practice of law.[150]

There were others like Judge Johnson who resigned when charges were made in the House that they had sold justice or taken kick-backs: Judge Charles T. Sherman of Ohio, who had actually threatened to sue the New York Stock Exchange in 1873 when it reneged on its promised payment; [151] Judge Francis A. Winslow, when Congressman LaGuardia charged in 1929 that he had organized a "banruptcy ring" in New York City and had taken "improper considerations" from a lawyer with a large practice in his court; [152] Judge Daniel Threw Wright of the District of Columbia Supreme Court, who was charged by the House in 1914 with appropriating court money for his own use; [153] Judge Ferdinand A. Geiger of Wisconsin, who thereby avoided the necessity in 1939 of explaining why he had abruptly dismissed a grand jury before it could report an antitrust indictment against Chrysler, Ford, and General Motors.[154]

Judge George H. English of Illinois delayed his resignation until the day the Senate was due to begin his impeachment trial. He owed his appointment as a judge to a politician named Charles B. Thomas, and the charge was that the Judge appointed Thomas to bankruptcy positions, that Thomas in turn appointed George H. English, Jr. as his attorney, that the Judge approved outrageous fees out of the bankrupt estates for both his former mentor and his son, and that they in turn made "loans" to the Judge. Other parts of the impeachment charge were that the Judge deposited the court funds in a hitherto obscure bank which he and his relatives controlled, and the bank made large loans to the Judge with little or no collateral and at little or no interest.[155]

The following charges made against the judges whom the House of Representatives "reprimanded" but did not impeach are equally serious: that in 1890 Aleck Boarman of Louisiana took the money of the court for his personal use and "borrowed" additional funds from the court marshal; [156] that Judge Emory Speer of Georgia accepted railroad passes in 1914 and deposited bankruptcy funds in favored banks; [157] that in 1930 Judge Grovery Moscowitz continued a business interest in his former New York law firm and appointed members of that firm to high-paid receiverships.[158]

The Judges whom the House of Representatives acquitted of wrongdoing were all charged, at least on the face of the accusations, with bribery or "other high Crimes and Misdemeanors" even though the evidence did not support the charge: Judge Henry Blodgett of Illinois in 1879 [159] and Judge Augustus Ricks of Ohio in 1895 [160] were charged with having borrowed court funds for personal use, and Judge William Van Ness of New York in 1818 [161] failed to exercise vigilance over the court funds with the consequence being that a clerk made off with them.

The charges filed against Mr. Justice William O. Douglas by Congressman Gerald Ford obviously are not of the same nature as those detailed above, nor do they approach in character the behavior, discussed below, of judges who were charged, but not impeached by the House, on the basis of job-related misconduct which did not constitute "Treason, Bribery or other high Crimes and Misdemeanors."

*Scandalous or improper job-related behavior*

In 1804, the House impeached and the Senate convicted John Pickering on a multitude of charges, one being that he "did appear upon the bench in a state of total intoxication, produced by the free and intemperate use of inebriating liquors." [162] Since that early date, the House of Representatives has declined to impeach a judge when the only charge against him is alcoholism. Thus,

Footnotes at end of article.

in 1808, the legislature of Mississippi requested the House to impeach Territorial Judge Peter Bruin for this reason, but the House refused to do so.[163] And, one hundred years later in 1925, the Judiciary Committee recommended against the impeachment of West Virginia Judge William E. Baker although it was charged that he was drunk on duty, drunk, moreover, on liquor confiscated by prohibition agents and stored in the courthouse for safe-keeping.[164]

Drunkeness is only one kind of scandalous judicial behavior which is not "good." Some judges abstain, or leave their liquor at home, and carry with them to the courtroom a quick temper, a sharp prejudice, or a vanity which is openly displayed at the expense of counsel, litigants, and witnesses.

The House of Representatives impeached Mr. Justice Chase [165] and Judge Peck [166] for abusive misuse of their judicial authority, but in neither situation did the Senate agree that such behavior was an impeachable offense. Since those early years of the past century, the House has consistently refused to impeach for misuse of judicial authority: when it was charged, in 1804, that Judge Richard Peters of Pennsylvania engaged in on-the-bench misconduct in the trial of Sedition cases; [167] in 1822, that Judge Charles Tait of Alabama engaged in "tyrannical conduct" toward members of the Bar;[168] in 1825, that Judge Buckner Thurston was "rude, insolent, and undignified" while presiding on the circuit court for the District of Columbia; [169] in 1833, that Judge Benjamin Johnson of the territory of Arkansas displayed favoritism of counsel, irritability, rudeness, and habitual intemperance; [170] in 1908, that Judge Lebbus R. Wilfley of the United States Court in China maintained a "dictatorial attitude" on the bench; [171] and, in 1935, when Congressman (later Senator) Dirksen charged that Judge Samuel Alschuler sat on a case and openly favored the Pullman Company, which was represented by the son of former governor Edward Dunne with whom the Judge had long political ties.[172]

More germane to the charge against Mr. William O. Douglas that he ruled in favor of Ginzburg's pornographic magazines is the House of Representatives' history, since getting off to a bad start with Justice Chase and Judge Peck, of refusing to impeach a judge because of his rulings in a particular case or because of a line of his decisions.[173] In this century, the House refused to impeach Judge Alston G. Dayton when Congressman (later Senator) Neeley charged him in 1914 with "improperly issuing injunctions to prevent the miners from exercising their just and legal rights under the laws of West Virginia." [174]

The House refused to impeach Judge Frank Cooper of New York in 1927 when Congressman LaGuardia charged that he "ignored and disregarded the law of the land" in permitting government agents to decoy persons into violation of the Prohibition laws.[175]

The House refused to impeach Judge James A. Lowell when Congressman Howard Smith of Virginia charged him with "disregard of the Constitution . . . and the decisions of the Supreme Court" because the Massachusetts judge had refused to extradite a Negro fugitive back to Virginia for trial because "negroes there were excluded from jury service." [176]

The House refused to impeach Judge Joseph W. Molyneaux in 1934 when Congressman Shoemaker charged that the judge had interfered with an investigation of several banks by the Minnesota State Commerce Commission by issuing an illegal injunction.[177]

It is for this reason that impeachment charges against Judge Herald Cox never reached the House floor,[178] although the behavior of the Mississippi judge was not "good" when he repeatedly referred to Negro litigants before his court with racist slurs (he called them chimpanzees).[179] For the same reason, the Ku Klux Klan of Richmond, Virginia, did no more than whistle Dixie when it threatened to institute impeachment proceedings against federal Judge Robert R. Merhige if he incorporated a "busing" provision in the city's school desegregation plan.[180]

In summary, the charges against Justice William O. Douglas are unique in our history of impeachment. The House had stood ready to impeach judges for Treason, Bribery, and related financial crimes and misdemeanors. It has refused to impeach judges charged with on-the-job misconduct when that behavior was not also an indictable criminal offense. Only once before has a judge even been charged with impeachment for non-job-related activities—in 1921, when Judge Kenesaw Mountain Landis was charged with accepting the job as Commissioner of big-league baseball—and there the House Judiciary Committee refused to dignify the charge with a report pro or con.[181] Never in our impeachment history, until Congressman Ford leveled his charges against Mr. Justice Douglas, has it ever been suggested that a judge could be impeached because, while off the bench, he exercised his First Amendment rights to speak and write on issues of the day and to associate with others in educational enterprises.

CONCLUSION

This brief history of Congressional impeachment shows several things. First, it shows that it works. It is not a rusty, unused power. Since 1796, fifty-five judges—approximately one in every three to four years—have been charged on the Floor of the House of Representatives. Thirty-three judges have been charged with "Treason, Bribery, or other High Crimes and Misdemeanors." Three of them have been found guilty by the Senate and removed from office; twenty-two additional judges have resigned rather than face Senate trial and public exposure. This amounts to one "corrupt" judge for approximately every seven years. Presumably, most of the federal judges who should be impeached are impeached.

Second, by its deeds and actions, Congress has recognized what Chief Justice Burger recently described as "the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function." [182] Except for a few abberations in the early-1800 period of unprecedented political upheaval, Congress has refused to impeach a judge for lack of "good behaviour" unless the behavior was both job-related and criminal. This has been true whether the judge was drunk on the bench,[183] whether the judge exploited and abused the authority of his robes,[184] or whether the judge handed down unpopular or wrong decisions.[185]

How could it be otherwise? The purpose of an "independent Judiciary" in our system of government-by-separation-of-powers is to check the excesses of the legislative and executive branches of the government and to cry a halt when popular passions grip the Congress and laws are adopted which abridge and infringe upon the rights guaranteed to all citizens by the Constitution. The judges must be strong and secure if they are to do this job well.

John Dickinson proposed at the Constitutional Convention that federal judges should be removed upon a petition by the majority of each House of Congress. This proposal was rejected because it was contradictory to judicial tenure during good behavior and because it would make the judiciary "dangerously dependent" on the legislature.[186]

During the Jeffersonian purge of the federal bench, Senate leader William Giles proclaimed that "removal by impeachment" is nothing more than a declaration by both Houses of Congress to the judge that "you hold dangerous opinions." This theory of the impeachment powers was rejected in 1804 because it would put in peril "the integrity of the whole national judicial establishment." [187]

Now Congressman Ford suggests that "an impeachable offense" is nothing more than "whatever a majority of the House of Representatives considers it to be at a given moment in history." [188]

Does he really mean that Chief Justice Warren might have been impeached because "at a given moment in history" a majority of the House and two-thirds of the Senate objected strongly to his opinion ordering an end to school-segregation or to his equally controversial decision against school prayer? Does he really mean that Judge Julius Hoffman is impeachable if a majority of this or the next Congress decides that he was wrong in his handling of the "Chicago Seven"? Does he really want a situation where federal judges must keep one eye on the mood of Congress and the other on the proceedings before them in court in order to maintain their tenure in office? If Congressman Ford is right, it bodes ill for the concept of an independent judiciary and the corollary doctrine of a constitutional government of laws.

However, to suggest that Congress should not capriciously wield its impeachment power does not mean that Congress should keep its hands off the judiciary. Far from it. Many congressional actions are desirable and appropriate and entirely in keeping with the maintenance of an "independent judiciary."

Some few of our most distinguished judges (Martin Manton and J. Warren Davis, for example) have succumbed to the lure of "easy money" when caught in a financial bind. Congress should ensure that federal judges are always paid a comfortable salary ahead of inflationary costs of living. This would at least minimize the temptations for selling justice.

Other judges, with advancing age, get crotchety, forgetful, arbitrary, or just lose touch with modern currents of style and thought. A mandatory retirement age at around seventy would deprive us of the maturing wisdom of a Holmes, a Brandeis, a Frankfurter, or a Black; but it would eliminate the John Pickerings and the Joseph Buffingtons; and it would benefit over-all with the infusion of new minds and fresh outlooks.

Judges in the past, and perhaps some today, drink too much. Others bring their cupidity, their racial and other prejudices to the bench with them. Some few are incompetent and are appointed for reasons totally unrelated to merit. These undesirable traits are discernible long before late middle-age when most lawyers are tapped for federal judgeships. The answer lies not in "impeachment" after the fact, but in curing the initial appointive processes. Judge Harold Carswell was confirmed by the Senate to a top judicial post on the Court of Appeals for the Fifth Circuit after no more than an hour or two of perfunctory "hearings." There was no exploration of his background or his fitness to serve as a judge in the deep South until President Nixon appointed him to the Supreme Court when his "racial" bias was uncovered.

The American Bar Association purports to "grade" and "qualify" judicial appointees. There is no reason why the House of Representatives (with the Constitutional mandate to initiate impeachment) should not also appoint a "watch dog" committee to scrutinize all judicial appointees and share its knowledge through testimony before the appropriate Senate body.

Despite all precautions in the appointive processes, a few judges will exploit their

Footnotes at end of article.

public position for private gain. It has happened in the past, it will happen in the future. Presently, there is no central forum to hear complaints against judges at early stages, and, as a result, the Judge Albert Johnsons survive on corruption and bribery for twenty years with the individual members of the local bar fearful of making a public outcry. A House of Representatives "watch dog" committee should be available as a matter of course, to hear complaints from fellow judges, local lawyers, newsmen, and private litigants and to sift them carefully in closed session. The approach suggested above is a better answer to the problem of the non-judicious judge who abuses his robes than the answer suggested by Congressman Ford.

"In 1835, the French observer de Tocqueville wrote:

"A decline of public morals in the United States will probably be marked by the abuse of the power of impeachment as a means of crushing political adversaries or ejecting them from office."[189]

Let us hope that that day has not yet arrived.

FOOTNOTES

* Member of the United States House of Representatives.

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[1] J. BORKIN, THE CORRUPT JUDGE 5 (1962) [hereinafter cited as BORKIN]. Mr. Borkin's book is by far the most definitive work on the subject of impeachment, and it should be heavily used by all subsequent writers on the subject. It compliments very well the earlier study on the subject—A. SIMPSON, FEDERAL IMPEACHMENTS (1916)—which appends all the charges in impeachment cases to the date of publication. *See also* Simpson, *Federal Impeachments*, 64 U. PA. L. REV. 803 (1916). Other notable law review coverage of the subject includes: Brown, *Impeachment of Federal Judiciary*, 26 HARV. L. REV. 684 (1913); ten Broek, *Partisan Politics and Federal Judgeship Impeachment Since 1903*, 23 MINN. L. REV. 185 (1939) [hereinafter cited as ten Broek]; and Yankwich, *Impeachment of Civil Officers Under the Federal Constitution*, 26 GEO. L. REV. 849 (1938).

[2] Gouverneur Morris and James Wilson argued that such dependence by the judiciary upon the good will of the other branches was contradictory to tenure during good behavior. Dickinson's motion received the vote of only one state, his own state of Delaware. The matter is discussed in Turner, *The Impeachment of John Pickering*, 54 AM. HIST. REV. 485, 492 (1949).

[3] U.S. CONST. art. III, § 1: "The Judges, both the supreme and inferior Courts, shall hold their Offices during good Behaviour; and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office."

[4] U.S. CONST. art. II, § 4: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." It was originally intended that this section of the Constitution provide the exclusive process and the sole grounds for removal of federal judges. Thus, Alexander Hamilton in his articles explaining the Constitution to the State Conventions called to adopt it wrote that federal judges "are liable to be impeached for mal-conduct by the House of Representatives, and trial by the Senate. . . ." THE FEDERALIST No. 7 (Cooke ed. 1961).

[5] U.S. CONST. art. I, § 2, cl. 5: "The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment."

[6] Impeachment may be initiated by charges made on the Floor by a member of the House, 3 A. HINDS, PRECEDENTS OF THE HOUSE OF REPRESENTATIVES §§ 2342, 2400, 2469 (1907) [hereinafter cited as HINDS]. Impeachment may also be initiated by a memorial containing charges under oath, *id.* §§ 2364, 2486, 2491, 2494; by a message from the President, *id.* §§ 2294, 2319; by a charge preferred by a State or territorial legislature, *id.* §§ 2469, 2487; or by petition, *id.* § 2030.

[7] Charges have been examined by the House before impeachments have been voted. After the charge is originally made, it is by resolution referred to a standing committee or to a special committee for investigation and report. *Id.* §§ 2519, 2342.

[8] Upon conclusion of the investigation by the designated committee, a report favoring impeachment may be referred to the House Calendar, 4 *Id.* § 499. Or it may be committed to the Committee of the Whole House on the State of the Union, 3 *Id.* § 2365. The question is generally submitted to the House in the following form: "Will the House adopt the articles, as its articles of impeachment, against ———?"

[9] Managers are usually appointed from those in accord with the sentiment of the House and from both parties. After the House has voted impeachment, it notifies the Senate thereof by message. *Id.* §§ 2413, 2446. Upon receipt of the message, the Senate adopts an order and sends a memorial to the House that it is ready to receive articles. *Id.* §§ 2078, 2345. The managers, on the part of the House, present to the Senate the articles of impeachment signed by the Speaker, and the chairman of the managers impeaches at the bar of Senate by oral accusation. *Id.* §§ 2413, 2446.

[10] U.S. CONST. art. I, § 3, cl. 6. "The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation . . . And no Person shall be convicted without the Concurrence of two thirds of the Members present."

[11] The respondent may demur to the charges on the grounds that the offense alleged is not a high crime or misdemeanor within the meaning of the Constitution. 3 HINDS § 2453.

[12] The presiding officer has power to issue all orders, mandates, and writs needed to compel the attendance of witnesses and to enforce obedience of his orders. The presiding officer rules on all questions of evidence and incidental questions which may arise. He may, at his option, submit questions to a vote of the members of the Senate. Witnesses are sworn and examined by the managers of the House and may be cross-examined by the respondent or his counsel. *Id.* at §§ 2082–89.

[13] See note 10 *supra*.

[14] U.S. CONST. art. I, § 3, cl. 7: "Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."

[15] 116 CONG. REC. H. 3112 (daily ed. April 15, 1970).

[16] United States v. Ginzburg, 224 F. Supp. 129 (E.D. Pa. 1963).

[17] Ginzburg v. United States, 383 U.S. 463, 482 (1966).

[18] Ginzburg v. Goldwater, 396 U.S. 1049 (1970) (Black & Douglas, J.J., dissenting).

[19] *Id.* at 1052.

[20] 116 CONG. REC. H. at 3114–15. Congressman Fraser interrupted to say that the earlier version of the Ford press release charged Justice Douglas with having accepted a fee for an article in a magazine at the time that person had a case pending in the Supreme Court. In fact, that was a false allegation. . . . [A]pparently between that time and the time he spoke on the floor he learned it was false and modified his statement. My only purpose in asking him to yield was so that the press would be clear that in fact he had changed that very serious allegation since it was brought. *Id.* at 3115.

[21] *Id.*

[22] *Id.* at 3116.

[23] *Id.* at 3116–17.

[24] *Id.* at 3118.

[25] *Id.* at 3113.

[26] What, then is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers [it] to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office. *Id.* at 3113–14.

[27] *Id.* at 3114.

[28] John Pickering (1803), *convicted;* Samuel Chase (1804), *acquitted;* James H. Peck (1831), *acquitted;* West H. Humphreys (1862), *convicted;* Charles Swayne (1903), *acquitted;* Robert W. Archbald (1912), *convicted;* Harold Louderbach (1932), *acquitted;* and Halsted L. Ritter (1936), *convicted.*

[29] Act of July 14, 1798, ch. 74, § 2, 1 Stat. 596.

[30] 3 A. BEVERIDGE, LIFE OF JOHN MARSHALL 30 (1919) [hereinafter cited as BEVERIDGE]. Congressman Lyon was indicted under the accusation that by this speech he had tried "to stir up sedition and bring the President and the Government of the United States into contempt." *Id.* at 31. He was convicted.

[31] *Id.* at 32. Editor Anthony Haswell also asserted in the advertisement that Congressman Lyon "is holden by the oppressive hand of usurped power."

[32] *Id.* at 42. In the words of Beveridge, "[i]t seems that such were the demonstrations of the people, . . . that the case was dropped."

[33] *Id.* The by-stander, one Baldwin, was fined $100.00.

[34] The method of securing indictments and convictions also met with public condemnation. In many states the United States Marshals selected what persons they pleased as members of the grand juries and trial juries. These officers of the National Courts were, without exception, Federalists; in many cases, Federalist politicans.

[35] *Id.* at 34.

[36] Dr. Thomas Cooper, editor of the "Sunbury And Northumberland Gazette," editorialized about Adams that at the beginning of his administration, "even those who doubted his capacity thought well of his intentions . . . Nor were we yet saddled with the expense of a permanent navy, or threatened . . . with the existence of a standing army. . . . Mr. Adams . . . had not yet interfered . . . to influence the decisions of a court of justice." *Id.* at 33, *quoting* F. WHARTON, STATE TRIALS OF THE UNITED STATES DURING THE ADMINISTRATIONS OF WASHINGTON AND ADAMS 661–62 (1849).

[37] *Id.* at 113.

[38] Act of Feb. 13, 1801, ch. 4, § 7, 2 Stat. 90.

[39] Act of Feb. 27, 1801, ch. 15, § 11, 2 Stat. 107; this statute authorized the appointment of justices of the peace in Washington, D.C. President Adams then filled forty-two of these posts with Federalists. 3 BEVERIDGE at 110.

[40] Act of Feb. 13, 1801, ch. 4, § 3, 2 Stat. 89.

[41] 3 BEVERIDGE at 56–57.

[42] *Id.* at 21.

[43] *Id.*

[44] Jefferson was inaugurated on Mar. 4, 1801 and commented in his address that "The Judiciary system . . . and especially that portion of it recently enacted, will, of course, present itself to the contemplation of Congress." *Id.* at 51. On Jan. 6, 1802, Senator John Breckenridge of Kentucky "pulled the lanyard that fired the opening gun" with a motion to repeal the Judiciary Act of 1801. *Id.* at 58.

[45] John Marshall held firmly to the opinion that insofar as the Republican Judiciary Repeal Act of 1802, Act of March 8, 1802, ch. 8, §§ 1–5, 2 Stat. 132, deprived federal judges of their offices and salaries, that legislation was unconstitutional. He urged the appointed judges to ignore the 1802 Act and perform their duties. *Id.* at 122.

Certain of the deposed National judges had taken steps to bring the Republican measure before the Supreme Court, but their energies flagged, their hearts failed, and their only action was a futile and foolish protest to the very Congress that had wrested their judicial seats from under them. Marshall was thus deprived of the opportunity at the only time he could have availed himself of it. *Id.* at 123.

[46] During the floor debate, Senator Gouverneur Morris of New York argued in vain that "to repeal the Federal Judiciary Law would be a declaration to the remaining judges that they hold their offices subject to [Congress'] will and pleasure. Thus, the check established by the Constitution is destroyed." *Id.* at 60.

[47] In answer to the threat that the Supreme Court would declare unconstitutional the Republican Repeal Act, a Senate committee was appointed to examine further the National Judiciary establishment. . . . Within a week the committee proposed and the Senate enacted a law eliminating the June session of the Supreme Court, and directing that the Court should convene but once each year, and fixed the second Monday of February as the time of the annual session. *Id.* at 95.

[48] "There was a particular and powerful reason for Marshall to fear impeachment, for should he be deposed, it was certain that Jefferson would appoint Spencer Roane of Virginia to be Chief Justice of the United States." *Id.* at 113.

[49] *Id.* at 157.

[50] *Id.* at 158. The Jeffersonian Republicans also beat down a Federalist proposal that the form of final vote should be whether or not Pickering was guilty or not guilty "of high crimes and misdemeanors." Instead, the form of the vote was whether or not Pickering was guilty "as charged." Turner, *supra* note 2, at 504.

[51] 3 Beveridge at 93.

[52] *Id.* at 159.

[53] Act of Feb. 13, 1801, ch. 4, § 25, 2 Stat. 97.

[54] Turner, *supra* note 2, at 488–89.

[55] *Id.* at 490–91.

[56] *Id.*

[57] *Id.* at 490.

[58] Senator Jackson of Georgia argued that instanity was not a defense because "a still more important case was coming up soon" and "by-and-by we should have Judge Chase's friends come and pretend he was mad." *Id.* at 499.

[59] *Id.* at 487–88.

[60] 3 Beveridge 184–85.

[61] *Id.* 46–47.

[62] *Id.* at 39.

[63] *Id.* at 195.

[64] See note 35 *supra*.

[65] 3 Beveridge 36.

[66] Chase also condemned to the assembled grand jurors "the modern doctrines by our late reformers that all men, in a state of society, are entitled to enjoy equal liberty and equal rights. . . ." *Id.* at 169. The members of the Maryland legislature demanded that the Justice be impeached and removed from the bench. *Id.* at 170.

[67] *Id.* at 37.

[68] *Id.* at 39.

[69] *Id.* at 41.

[70] *Id.* at 173.

[71] *Id.* at 205–06. The Federalists argued that while the Judge's "unusual rude and contemptuous expressions" from the bench were "a violation of the principles of politeness" and displayed a "want of decorum," they did not constitute an impeachable "High Crime and Misdemeanor." *Id.* at 202.

[72] Six days before the Senate trial ended, it was interrupted by Vice President Aaron Burr to announce the Electoral College returns: Thomas Jefferson and George Clinton were duly elected to the respective offices of President and Vice-President. Burr had been "dumped" by Jefferson in favor of Burr's arch political rival, George Clinton of New York; and it is worthy of some comment that the Republican Senators who voted against impeachment were from the Burr strongholds of the Northeast and the West. *Id.* at 197. Burr was one of the few Republicans who had voted against the repeal of the 1801 Judiciary Act, and it was his followers in the Senate who had abstained in the Pickering vote. *Id.* at 280.

[73] *Id.* at 219–20.

[74] *Id.* at 221.

[75] *Id.*

[76] *Id.* at 222.

[77] *Id.* at 220.

[78] Reinhardt, *The Impeachment Proceedings Against Judge James Hawkins Peck*, 13 U. Kan. City L. Rev. 106, 108–09 (1944) [hereinafter cited as Reinhardt].

[79] *Id.* at 108.

[80] *Id.*

[81] *Id.* at 109. John Marshall, when he thought all was lost during the Chase impeachment trial, made a similar proposal, i.e., that "the doctrine of impeachment should yield to an appellate jurisdiction [of Supreme Court decisions] *in the legislature*." 3 Beveridge at 177 (emphasis added).

[82] Reinhardt at 109.

[83] *See generally Id.* at 110–12.

[84] *See Id.*

[85] *See Id.*

[86] This was in 1826. The matter was referred to the Judiciary Committee, which reported back in 1827 that the Congressman had leave to withdraw his memorial.

On December 29, 1828, Congressman McDuffie of South Carolina presented a similar memorial. It was referred to the Judiciary Committee, which took no action during that session of Congress.

On December 14, 1829, McDuffie repeated the motion he had made the previous session, and this time the Judiciary Committee recommended impeachment. *Id.* at 110.

[87] 3 Hinds § 772.

[88] Act of March 2, 1831, ch. 99, § 1, 4 Stat. 487.

[89] Reinhardt at 117–18.

[90] Soulard v. United States, 35 U.S. (10 Pet.) 100 (1836).

[91] A. Simpson, *supra* note 1, at 197–99.

[92] The text of the charges against Judge Humphreys is set forth verbatim in A. Simpson, *supra* note 1, app. See also Brown, *supra* note 1, at 701.

[93] ten Broek at 187.

[94] Proceedings in the Senate of the United States in the Matter of the Impeachment of Charles Swayne 282–84 (1905). A version more favorable to Judge Swayne is presented in Littlefield, *The Impeachment of Judge Swayne*, 17 Green Bag 193, 200–05 (1905).

[95] Article VIII of the impeachment charge, A. Simpson, *supra* note 1, app.

[96] ten Broek at 189 n. 19.

[97] A. Simpson, *supra* note 1, 585.

[98] ten Broek at 189 n.20.

[99] *Id.* at 192 n.30.

[100] *Id.* at 192.

[101] *E.g.*, Lochner v. New York, 198 U.S. 405 (1905).

[102] ten Broek at 191–92.

[103] 3 Hinds § 515.

[104] ten Broek at 196.

[105] *Id.* at 199.

[106] The impeachment charges are set out in S. Doc. No. 200, 74th Cong., 2d Sess. 3066–69, 4597–99 (1936).

[107] ten Broek at 200; Yankwich, *supra* note 1, at 857–58.

[108] See text at note 57 *supra*.

[109] See text at note 68 *supra*.

[110] See text at note 89 *supra*.

[111] See text at note 92 *supra*.

[112] See text at notes 95 & 96 *supra*.

[113] See text at note 98 *supra*.

[114] See text at notes 103 & 104 *supra*.

[115] See text at note 106 *supra*.

[116] 1 State Papers, Misc. 4th Cong., 1st Sess. 151–52 (1796).

[117] See text at note 92 *supra*.

[118] 18 Annals of Cong. 2760–90 (1808).

[119] These include Judges Philip K. Lawrence of Louisiana (1839); John C. Watrous of Texas (1860); Mark H. Delahay of Kansas (1872); Edward H. Durell of Louisiana (1874); Charles T. Sherman of Ohio (1873); Richard Busteed of Alabama (1875); Cornelius H. Hanford of Washington (1912); Daniel Threw Wright of the District of Columbia (1914); George W. English of Illinois (1925); Francis A. Winslow of New York (1929); Ferdinand R. Geiger of Wisconsin (1939); Minton T. Manton of New York (1939); Warren J. Davis of New Jersey (1941); and Albert T. Johnson of Pennsylvania (1945). Four other judges resigned pending inquiry, and the House did not disclose the nature of the charges against them: Thomas Irwin of Pennsylvania (1859); D. C. Humphreys of the District of Columbia (1875); Andrew Wylie of the District of Columbia (1875); and William Stephens of Georgia (1818).

[120] These include Judges Alec Boarman of Louisiana (1890); Augustus J. Ricks of Ohio (1895); Emory Speer of Georgia (1914); Grover M. Moscowitz of New York (1930); and Harry B. Anderson of Tennessee (1941).

[121] Judges William P. Van Ness of New York (1818); Charles Tait of Alabama (1822); Harry W. Blodgett of Illinois (1879); and Albert L. Watson of Pennsylvania (1947).

[122] Judge Joseph L. Smith of Florida (1830); and Judge William F. Story of Arkansas (1874).

[123] H.R. Rep. No. 272, 25th Cong., 3d Sess. 35 (1839).

[124] Borkin at 229.

[125] H.R. Rep. No. 732, 43d Cong., 1st Sess. 1 (1874).

[126] Borkin at 25–26.

[127] *Id.* at 44–45.

[128] *Id.* at 27.

[129] *Id.* at 28.

[130] *Id.* at 79–80.

[131] *Id.* at 98.

[132] *Id.* at 99.

[133] *Id.* at 106–07.

[134] *Id.* at 101.

[135] *Id.* at 107.

[136] *Id.* at 108.

[137] *Id.* at 113.

[138] *Id.* at 120.

[139] *Id.* at 142.

[140] *Id.* at 143.

[141] *Id.* at 142.

[142] *Id.* at 143.

[143] *Id.* at 144.

[144] *Id.*

[145] *Id.* at 146–47.

[146] *Id.* at 148–49.

[147] H.R. Rep. No. 1639, 79th Cong., 2d Sess. 2 (1946).

[148] *Id.* at 26–38.

[149] *Id.* at 43–44.

[150] Borkin at 186.

[151] 3 Hinds § 2511; Cong. Globe, 43d Cong., 3d Sess. 1655–56 (1873).

[152] 70 Cong. Rec. 5067–68 (1929).

[153] 51 Cong. Rec. 5238 (1914).

[154] The President of the Wisconsin State Bar Association testified that Judge Geiger dismissed the grand jury because he disapproved of the Government's use of a grand jury as a means of coercing the motor companies into a "consent decree." *Hearings Before the House Comm. on the Judiciary*, 75th Cong., 3d Sess., ser. 2, at 7 (1938).

[155] ten Broek at 195.

[156] 21 Cong. Rec. 3595 (1891).

[157] 50 Cong. Rec. 3824 (1913).

[158] H.R. Rep. No. 1106, 71st Cong., 2d Sess. 3 (1930).
[159] 8 Cong. Rec. 2388 (1879).
[160] H.R. Rep. No. 1670, 53d Cong., 3d Sess. 1 (1895).
[161] H.R. Rep. No. 464, 15th Cong., 2d Sess. 1 (1819).
[162] See text at notes 56–58 *supra*.
[163] 6 H.R. Jour., 10th Cong., 1st Sess. 264 (1808).
[164] Borkin at 222.
[165] See text at note 70 *supra*.
[166] See text at note 87 *supra*.
[167] 4 H.R. Jour., 8th Cong., 1st Sess., 520, 643 (1804).
[168] 40 Annals of Cong. 463 (1822).
[169] H.R. Rep. No. 327, 24th Cong., 2d Sess. 1 (1837). The defense was that Judge Thurston labored under a mental disease. *Id.* at 5.
[170] H.R. Rep. No. 88 22d Cong., 2d Sess. 1 (1833). The House Committee also reported that a territorial judge, holding office for a term of four years, "is not a proper subject of trial by impeachment." *Id.*
[171] Among other things, it was charged that when Judge Wilfley was appointed to the United States Court for China, he gave a bar examination to the practicing lawyers and flunked them all. 42 Cong. Rec. 2263 (1908).
[172] 79 Cong Rec. 7081 (1935). When the impeachment resolution was introduced in the House, Senator Ashurst introduced in the Senate a resolution authorizing a committee of 12 Senators to receive evidence in the trial of any impeachment. *Id.* at 8309.
[173] See text at notes 70 & 87 *supra*.
[174] The Judiciary Committee recommended against impeachment although it reported that Judge Dayton "issued restraining orders of very drastic scope and comprehension in certain cases brought by coal operators of West Virginia against their operatives and employees" and that "his manner and language toward the defendants (union members) while upon the bench was that of hatred and bitterness." H.R. Rep. No. 1490, 63d Cong., 3d Sess. 4 (1915).
[175] The Judiciary Committee concluded that "while certain activities of the Hon. Frank Cooper with relation to the manner of procuring evidence in cases which would come before him for trial are not to be considered as approved by this report, it has reached the conclusion and finds that the evidence does not call for the interposition of the constitutional powers of the House with regard to impeachment." H.R. Rep. 2299, 69th Cong., 2d Sess. 1 (1927).
[176] 77 Cong. Rec. 2416–17 (1933).
[177] 78 Cong. Rec. 1099 (1934).
[178] New Republic, Sept. 4, 1965, at 13.
[179] New York Times, Jan. 12, 1965, at 18, col. 6.
[180] The Washington Post, Aug. 4, 1970, § A, at 13, col. 3.
[181] The Committee on the Judiciary recommended that the charges be considered by the next congress, H.R. Rep. No. 407, 66th Cong., 1st Sess. 1 (1921). The Sixty-seventh Congress took no action.
[182] Chandler v. Judicial Council of the Tenth Circuit, 398 U.S. 74, 84 (1970).
[183] See text following note 162 *supra*.
[184] See text following note 166 *supra*.
[185] See text following note 173 *supra*.
[186] See text at note 2 *supra*.
[187] See text at note 71 *supra*.
[188] See text at note 26 *supra*.
[189] ten Broek at 185, *quoting* Alexis de Tocqueville.

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## SST REPORT AND THE FREEDOM OF INFORMATION ACT

Mr. PROXMIRE. Mr. President, last Tuesday, April 13, the U.S. Court of Appeals for the District of Columbia handed down a far-reaching decision under the Freedom of Information Act—5 U.S.C. § 552. The Court declared that the Office of Science and Technology is an independent agency subject to the act and that a controversial report prepared for the agency in 1969 evaluating the SST program may be covered.

Mr. President, many Members of Congress have asked that this study—known as the Garwin report—be made public. Calls for disclosure have come from both sides of the SST controversy. Representative Boland, of Massachusetts, one of the SST's strongest proponents, stated at a recent House hearing on the SST his belief that the failure to make the Garwin report public weakened the administration's case.

The Court of Appeals decision is a welcome one. The Garwin report should have been made public long ago. Great credit for bringing about last Tuesday's decision goes to Representative Henry Reuss, of Wisconsin, whose persistent efforts to obtain the report formed the basis for the Court's action.

Mr. President, I ask unanimous consent that the decision in *Soucie* v. *David*, Docket No. 24, 573, be printed in the Record.

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

[United States Court of Appeals for the District of Columbia Circuit, No. 24,573]

Edward E. David, Jr., Director, Office of Science and Technology, et al.

(Appeal from the United States District Court for the District of Columbia, Decided April 13, 1971)

*Mr. Peter L. Koff*, with whom *Messrs. Lawrence Speiser* and *Melvin L. Wulf* were on the brief, for appellants. *Mrs. Hope Eastman* also entered an appearance for appellants.

*Mr. Jeffrey F. Axelrad*, Attorney, Department of Justice, with whom *Messrs. Thomas A. Flannery*, United States Attorney, *Robert V. Zener* and *Harland F. Leathers*, Attorneys, Department of Justice, were on the brief, for appellees. *Mr. Morton Hollander*, Attorney, Department of Justice, also entered an appearance for appellees.

*Mr. Peter L. Koff*, Assistant Corporation Counsel for the City of Boston, Massachusetts, filed a brief on behalf of the City of Boston as *amicus curiae*.

Before Bazelon, *Chief Judge*, Van Dusen,* *Circuit Judge*, U.S. Court of Appeals for the Third Circuit, and Wilkey, *Circuit Judge*.

Bazelon, *Chief Judge:* This is an appeal from the dismissal of a suit for injunctive relief under the Freedom of Information Act.[1] Two citizens seek to compel the Director of the Office of Science and Technology (OST)[2] to release to them a document known as the Garwin Report, which evaluates the Federal Government's program for development of a supersonic transport aircraft (SST).[3]

The Report originated in the following manner. The President asked the Director of the OST, then Dr. Lee A. DuBridge,[4] to provide him with an "independent assessment" of the SST program. Dr. DuBridge convened a panel of experts, headed by Dr. Richard L. Garwin, to assist him. When the President learned of the panel, he asked to see its report. Dr. DuBridge subsequently transmitted the Garwin Report, along with his own evaluation, to the President.[5]

When appellants inquired about the Garwin Report, the OST indicated that it would not release the Report to members of the public because the Report was a Presidential document over which the OST had no control, and was "in the nature of inter- and intra-agency memoranda which contained opinions, conclusions and recommendations prepared for the advice of the President"[6] Appellants brought suit under the Freedom of Information Act to compel disclosure of the Report.[7] The District Court dismissed the complaint with a brief order stating that the Report is a Presidential document, and consequently, that the court has neither authority to compel its release nor jurisdiction over a suit to obtain that relief. At the hearing, the trial judge discussed the basis for his ruling. He stated that the OST is not an "agency" for the purposes of the Freedom of Information Act, but rather a part of the Office of the President, and that the Garwin Report is protected from compulsory disclosure by the doctrine of executive privilege.

In Part I of this opinion we review the origin and functions of the OST and conclude that the OST is an agency, and that the Garwin Report is an agency record. Consequently, subject to any constitutional issues which may be raised, the complaint states a cause of action under the Freedom of Information Act, and the District Court erred in dismissing the suit. The case must be remanded for that court to consider whether the document is protected, in whole or in part, by any of the specific exemptions enumerated in the Act. In Part II of this opinion we indicate some of the considerations that will be relevant to that determination.

While the District Court referred to the doctrine of executive privilege in support of its decision, the privilege was not expressly invoked by the Government, and therefore, it was not properly before the court.[8] Serious constitutional questions would be presented by a claim of executive privilege as a defense to a suit under the Freedom of Information Act,[9] and the court should avoid the unnecessary decision of those questions.[10] Accordingly, whether or not the Government makes a claim of privilege on remand, the court should first consider whether the Report falls within any statutory exemption.[11] Only if the Act seems to require disclosure, and if the Government makes an express claim of executive privilege, will it be necessary for the court to consider whether the disclosure provisions of the Act exceed the constitutional power of Congress to control the actions of the executive branch.[12]

I

Congress passed the Freedom of Information Act in 1966 to strengthen the disclosure requirements of the Administrative Procedure Act (APA). Each federal agency subject to the APA must now make its records, with certain specific exceptions, available to "any person" who requests them; district courts have jurisdiction to order the production of any "identifiable record" which is "improperly withheld," and "the burden is on the agency to sustain its action."

Under the APA, an agency is any "authority of the Government of the United States, whether or not it is within or subject to review by another agency."[13] The statutory definition of "agency" is not entirely clear, but the APA apparently confers agency status on any administrative unit with substantial independent authority in the exercise of specific functions.[14] While the primary purpose of the APA is to regulate the processes of rule making and adjudication, administrative entities that perform neither function are nevertheless agencies, and therefore subject to the public information provisions of the APA, *i.e.*, the Freedom of Information Act.[15]

The District Court ruled that the OST is not an agency, but merely staff to the President.[16] On that theory, the only "au-

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Footnotes at end of article.

thority" controlling the Garwin Report is the President, and the trial court held that the President is not subject to the disclosure provisions of the APA. We need not determine whether Congress intended the APA to apply to the President,[17] and whether the Constitution would permit Congress to require disclosure of his records,[18] for we have concluded that the OST is a separate agency, subject to the requirements of the Freedom of Information Act, and that the Garwin Report is a record of that agency.

The OST, created in 1962 by an executive reorganization plan, is authorized (1) to evaluate the scientific research programs of the various federal agencies, and (2) to advise and assist the President in achieving coordinated federal policies in science and technology.[19] Its functions had previously been assigned to the National Science Foundation,[20] but the President found that arrangement unsatisfactory: [21]

"[T]he Foundation, being at the same organizational level as other agencies, cannot satisfactorily coordinate Federal science policies or evaluate programs of other agencies. Science policies, transcending agency lines, need to be coordinated and shaped at the level of the Executive Office of the President drawing upon many resources both within and outside of Government. Similarly, staff efforts at that higher level are required for the evaluation of Government programs in science and technology."

The President therefore proposed a reorganization plan that transferred certain functions to an administrative unit "outside the White House Office, but in the Executive Office of the President on roughly the same basis as the Budget Bureau, the Council of Economic Advisors, the National Security Council, and the Office of Emergency Planning." [22]

A reorganization plan proposed by the President can take effect only if both houses of Congress acquiesce, *i.e.*, if neither house passes a resolution disapproving the plan within a fixed period of time.[23] The congressional understanding of a proposed plan is therefore entitled to considerable weight in determining its effect. The one house of Congress that explicitly considered the plan creating the OST [24] clearly contemplated that the OST would function as a distinct entity and not merely as part of the President's staff. The House Committee on Government Operations stated: [25]

"Heretofore, the Congress has not been able to obtain adequate information on Government-wide science matters because the President's Special Assistant for Science has been unavailable for questioning by congressional committees due to his confidential relationship with the President. We express no opinion here on the merits of this reasoning but this committee's position on excessive invocation of executive privilege is well known. With the creation of the new office the Director will become available to Congress and provide us with more information than we now obtain."

A Congressman commenting on the plan emphasized the same point: [26]

"With an Office established by the reorganization plan, and a Director and Deputy Director to head it, congressional committees will be able to deal with this organization on the same basis as they do with the Bureau of the Budget and the Council of Economic Advisers. We will have a responsible officer to whom we can direct inquiries, and whom we can summon to committees to give testimony on subjects of the greatest national importance."

If the OST's sole function were to advise and assist the President, that might be taken as an indication that the OST is part of the President's staff and not a separate agency. In addition to that function, however, the OST inherited from the National Science Foundation the function of evaluating federal programs. When Congress initially imposed that duty on the Foundation, it was delegating some of its own broad power of inquiry [27] in order to improve the information on federal scientific programs available to the legislature. When the responsibility for program evaluation was transferred to the OST, both the executive branch and members of Congress contemplated that Congress would retain control over information on federal programs accumulated by the OST, despite any confidential relation between the Director of the OST and the President—a relation that might result in the use of such information as a basis for advice to the President.[28] By virtue of its independent function of evaluating federal programs, the OST must be regarded as an agency subject to the APA and the Freedom of Information Act.

Moreover, the OST's interpretation of its own charter in 1967 lends additional support to the conclusion that it is a separate administrative entity.[29] At that time, the OST apparently considered itself an agency subject to the APA, for it published a notice in the Federal Register describing the information available to the public from the OST under the new Freedom of Information Act, and setting forth procedures for obtaining that information.[30]

Having concluded that the OST is an agency, we think it clear that the Garwin Report is a record of that agency for purposes of a suit under the Freedom of Information Act. The function of the OST is to evaluate federal scientific programs.[31] Consequently, any report prepared by the agency or its consultants in fulfillment of that function must be regarded as a record of the agency. It is true that the SST program was selected for evaluation because the President had requested an assessment of it. That request may bring the document within a statutory or constitutional exemption from the disclosure requirements of the Act.[32] But the request does not deprive the Garwin Report of its character as the record of a study made in the performance of the ordinary functions of the agency.

II

The conclusion that the Garwin Report is an agency record is only the beginning of the inquiry required under the Freedom of Information Act. The Act enumerates nine specific exemptions to its general requirement of disclosure.[33] On remand, the trial court must determine whether any of those exemptions is applicable.

It has been argued that courts may recognize other grounds for nondisclosure, apart from the statutory exemptions. At least one court has held that the Act's grant of "jurisdiction to enjoin" improper withholding of agency records leaves district courts with discretion to deny relief on general equitable grounds, even when no exemption is applicable.[34] But Congress clearly has the power to eliminate ordinary discretionary barriers to injunctive relief, and we believe that Congress intended to do so here.[35]

Prior to the Freedom of Information Act, the disclosure provisions of the APA allowed the agencies to withhold information "in the public interest," or "for good cause shown," or on the ground that the person seeking the record was not "properly and directly concerned." [36] The chief purpose of the new Act was to increase public access to governmental records by substituting limited categories of privileged material for these discretionary standards, and providing an effective judicial remery.[37] The Act rejects the usual principle of deference to administrative determinations by requiring a trial "de novo" in the district court. By directing disclosure to any person, the Act precludes consideration of the interests of the party seeking relief. Most significantly, the Act expressly limits the grounds for nondisclosure to those specified in the exemptions.[38] Through the general disclosure requirement and specific exemptions, the Act thus strikes a balance among factors which would ordinarily be deemed relevant to the exercise of equitable discretion, *i.e.*, the public interest in freedom of information and countervailing public and private interests in secrecy. Since judicial use of traditional equitable principles to prevent disclosure would upset this legislative resolution of conflicting interests, we are persuaded that Congress did not intend to confer on district courts a general power to deny relief on equitable grounds apart from the exemptions in the Act itself.[39] There may be exceptional circumstances in which a court could fairly conclude that Congress intended to leave room for the operation of limited judicial discretion, but no such circumstance appears in the present record of this case.

Thus, unless the Government on remand makes a valid claim of constitutional privilege, it will be able to prevent disclosure only by showing that the Garwin Report falls within one or more of the statutory exemptions.

On the basis of the present record, the exemption which seems most likely to be relevant is the fifth, protecting "inter-agency and intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." [40] That exemption was intended to encourage the free exchange of ideas during the process of deliberation and policy-making; accordingly, it has been held to protect internal communications consisting of advice, recommendations, opinions, and other material reflecting deliberative or policy-making processes, but not purely factual or investigatory reports.[41] Factual information may be protected only if it is inextricably intertwined with policy-making processes.[42] Thus, for example, the exemption might include a factual report prepared in response to specific questions of an executive officer, because its disclosure would expose his deliberative processes to undue public scrutiny. But courts must beware of "the inevitable temptation of a government litigant to give [this exemption] an expansive interpretation in relation to the particular records at issue." [43]

The OST is specifically authorized by Congress to evaluate federal scientific programs in order to provide Congress and the President with better information. Its evaluations may be useful to the President, the Congress, and other agencies with the power to make science policy. Nevertheless, the evaluations themselves may not reflect the internal policy deliberations that the "internal communications" privilege is designed to protect. The Garwin Report may contain some policy advice and recommendations which are protected by the statutory exemption.[44] In the present record, however, there is no evidence to indicate that releasing the factual information in the Garwin Report will expose the decisional processes of the President or other executive officers with policy-making functions. Unless the Government introduces such evidence on remand, the factual information in the Report will not be protected by the exemption for internal communications.

Another statutory exemption which may be applicable to the Garwin Report is the fourth, protecting "trade secrets and commercial or financial information obtained from a person and privileged or confidential." [45] This exemption is intended to encourage individuals to provide certain kinds of confidential information to the Government, and it must be read narrowly in accordance with that purpose.[46] If the Garwin Report contains material protected by this exemption, then that material should be de-

Footnotes at end of article.

leted before disclosure of the remainder may be required.[47]

Finally, the trial court on remand may be called upon to consider the first exemption, for matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy."[48]

Under the Freedom of Information Act, the District Court is required to expedite the proceedings on remand to determine whether the Garwin Report is protected by any statutory exemption or constitutional privilege.[49] The court can most effectively undertake the statutory de novo evaluation of the Government's claim by examining the Report *in camera*. Since the record indicates that the Report is an evaluation of the federal program for development of the SST, it seems likely that the Report contains factual information on the SST and on the Government's activities with respect to it. If the Government asserts a specific privilege on remand, inspection of the Report will enable the court to delete any privileged matter, so that the remainder may be disclosed in accordance with the policies of the Act.[50] Even if the Government asserts that public disclosure would be harmful to the national defense or foreign policy, *in camera* inspection may be necessary. In such a case, however, the court need not inspect the Report if the Government describes its relevant features sufficiently to satisfy the court that the claim of privilege is justified.[51]

III

Congress passed the Freedom of Information Act in response to a persistent problem of legislators and citizens, the problem of obtaining adequate information to evaluate federal programs and formulate wise policies. Congress recognized that the public cannot make intelligent decisions without such information, and that governmental institutions become unresponsive to public needs if knowledge of their activities is denied to the people and their representatives. The touchstone of any proceedings under the Act must be the clear legislative intent to assure public access to all governmental records whose disclosure would not significantly harm specific governmental interests. The policy of the Act requires that the disclosure requirement be construed broadly, the exemptions narrowly.

The public's need for information is especially great in the field of science and technology, for the growth of specialized scientific knowledge threatens to outstrip our collective ability to control its effects on our lives. The OST itself was created to help alleviate this problem; Congress intended that the OST would provide better information and coordination with respect to federal activities in the scientific field. It would defeat the purposes of the OST, as well as the purposes of the Act, to withhold from the public factual information on a federal scientific program whose future is at the center of public debate.

*Reversed and remanded for further proceedings in accordance with this opinion.*

FOOTNOTES

*Sitting by designation pursuant to 28 U.S.C. § 291(a) (1964).

[1] Pub. L. No. 89-487, 80 Stat. 250 (1966), *amending* Administrative Procedure Act, ch. 324, § 3, 60 Stat. 238 (1946), 5 U.S.C. § 1002 (1964). Pub. L. No. 89-487 was repealed, but its substantive provisions enacted into the United States Code, by Pub. L. No. 90-23, 81 Stat. 54 (1967), 5 U.S.C. § 552 (Supp. V, 1970).

[2] The OST was established in the Executive Office of the President by Reorganization Plan No. 2 of 1962, Pt. I, 3 C.F.R. 879 (1959-63 Compilation), 5 U.S.C. § 133z-15 (1964).

[3] The statutory basis for the SST program is a provision in the Federal Aviation Act of 1958 authorizing the Administrator of the Federal Aviation Agency to undertake research and development in aviation. Pub. L. No. 85-726, Tit. III, § 312(c), 72 Stat. 752 (1958), 49 U.S.C. § 1353(c) (1964). This function was transferred to the Secretary of Transportation, to be exercised by the Federal Aviation Administrator, by the Department of Transportation Act. Pub. L. No. 89-670, § 6(c)(1), 80 Stat. 938 (1966), 49 U.S.C. § 1655(c)(1) (Supp. V, 1970).

[4] Dr. Edward E. David, Jr. has replaced Dr. DuBridge as Director of the OST and as a party to this litigation.

[5] These uncontroverted facts are set forth in the record in statements of Dr. DuBridge. Affidavit of Dr. Lee A. DuBridge, Appendix at 14-16; Letter of April 3, 1970 from Dr. Lee A. DuBridge to The Honorable Henry S. Reuss, Member of the United States House of Representatives, Appendix at 8-9.

[6] Letter of May 20, 1970 from Mr. John D. Ehrlichman, Assistant to the President for Domestic Affairs, to The Honorable Henry S. Reuss, Member of the United States House of Representatives, Appendix at 11. In two letters to Dr. DuBridge, Mr. Reuss had tried to obtain the Garwin Report. Appendix at 6-7. Dr. DuBridge sent two letters in reply, the second of which referred Mr. Reuss' request to the Counsel to the President. Appendix at 8-10. Then Mr. Ehrlichman declined to release the Report to Mr. Reuss for the reason quoted in text above. When appellants' attorney Koff asked the OST about the availability of the Report, the Special Assistant to the Director told him that the OST "was without authority to make available to a member of the public the report of Dr. Garwin, since this matter involved a Presidential document over which the [OST] had no control, and that the [OST] would abide by the ruling of John D. Ehrlichman . . . as contained in his May 20, 1970 letter to The Honorable Henry S. Reuss . . . if a request for said report was made by a member of the public." Affidavit of Peter L. Koff, Appendix at 12-13.

This chain of events provided ample basis for appellants to bypass as futile the step of filing a written request for the document, as ordinarily required by the OST, 32 Fed. Reg. 11,060 (1967). *See generally* 3 K. DAVIS, ADMINISTRATIVE LAW TREATISE §§ 20.07-.08. (1958, Supp. 1970); L. JAFFE, JUDICIAL CONTROL OF ADMINISTRATIVE ACTION 425-37, 446-49 (1965). The OST's refusal to disclose the Report to Mr. Reuss is especially significant, for while his right as a citizen to obtain the Report under the Act is equal to that of appellants, his right as a Congressman is presumably greater. *See* H.R. REP. No. 1497, 89th Cong., 2d Sess. 11-12 (1966).

[7] The Act provides:

"[E]ach agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complaint [sic]. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event the noncompliance with the order of the court, the district court may punish for contempt the responsible employee. . . ."

5 U.S.C. § 552(a)(3) (Supp. V, 1970).

[8] *See* United States v. Reynolds, 345 U.S. 1, 7-8 (1953):

"The privilege belongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer. [footnotes omitted.]"

*See also* General Services Administration v. Benson, 415 F.2d 878, 879 (9th Cir. 1969).

[9] The doctrine of executive privilege is to some degree inherent in the constitutional requirement of separation of powers. *See, e.g.*, Berger, *Executive Privilege V. Congressional Inquiry (Pts. I & II)*, 12 U.C.L.A.L. REV. 1043, 1287 (1965); Bishop, *The Executive's Right of Privacy: An Unresolved Constitutional Question*, 66 YALE L.J. 477 (1957); Davis, *The Information Act: A Preliminary Analysis*, 34 U. CHI. L. REV. 761, 763-65 (1967). As the concurring opinion points out, the power of Congress to compel disclosure of agency records to the public is no greater than its power to compel disclosure to Congress itself. Since 1789, Congress has frequently exercised the latter power in statutes requiring executive officers to transmit information to Congress. *See e.g.*, Act of Sept. 2, 1789, ch. 12, § 2, 1 Stat. 65, *as amended*, 31 U.S.C. § 1002 (Supp. V, 1970) (Sec'y of Treasury must give certain information to either house of Congress on request); Act of May 29, 1928, ch. 901, § 2, 45 Stat. 996, *as amended*, 5 U.S.C. § 2954 (Supp. V, 1970) (each executive agency must disclose certain information to Gov't Operations Committees of House and Senate on request). However, courts have never been asked to rule on the scope of executive privilege in the context of a congressional command to disclose information. They have considered the scope of the privilege only in ruling on a litigant's request for discovery of information held by the Government, both in litigation with the Government, *e.g.*, Roviaro v. United States, 353 U.S. 53 (1957); United States vs. Reynolds, 345 U.S. 1 (1953), and in litigation between private parties, *e.g.*, Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena, 40 F.R.D. 318 (D.D.C. 1966), *aff'd per curiam*, 128 U.S. App. D.C. 10, 384 F.2d 979, *cert. denied*, 389 U.S. 952 (1967).

[10] *See* Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 345-48 (1936) (Brandeis, J., concurring).

[11] If the Government asserts a constitutional privilege on remand, the court will not thereby be deprived of jurisdiction, for the judicial power extends to resolving the questions of separation of powers raised by the constitutional claim. *See* Powell v. McCormack, 395 U.S. 486, 512-22, 548-49 (1969); Baker v. Carr, 369 U.S. 186, 198-204, 208-37 (1962) *cf.* Berger (Pt. II), *supra* note 9, at 1349-60. The precise limits of legislative authority over the executive branch are not clear. In discussing the President's power to remove officers, the Supreme Court has drawn an uncertain distinction between officers who exercise purely executive functions, and those whose functions are quasi-legislative or quasi-judicial; only the former are removable at the will of the President in spite of a contrary congressional enactment. *Compare* Wiener v. United States, 357 U.S. 349 (1958), *and* Humphrey's Ex'r v. United States, 295 U.S. 602 (1935), *with* Myers v. United States, 272 U.S. 52 (1926). *See also* Kendall v. United States, 37 U.S. (12 Pet.) 524, 610, 612-13 (1838).

[12] The fact that the President may have ordered the Director of the OST not to release the Garwin Report does not leave the courts without power to review the legality of withholding the Report, for courts have power to compel subordinate executive officials to disobey illegal Presidential commands. *See* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952). If nondisclosure of the Garwin Report is not supported by a statutory exemption or a constitutional executive privilege, the Freedom of Information Act requires issuance of an injunction to compel the OST to release the Report, whether the refusal to disclose is attributable to the OST or to the President. The President is not an indispensable party, because a "decree granting the relief sought

will [not] require him to take action, either by exercising a power lodged in him or by having a subordinate exercise it for him," and because "the decree which is entered will effectively grant the relief desired by expending itself on the subordinate official who is before the court." Williams v. Fanning, 332 U.S. 490, 493, 494 (1947).

[13] 5 U.S.C. § 551(1) (Supp. V, 1970).

[14] *See* H.R. REP. No. 1980, 79th Cong., 2d Sess. 19 (1946); S. REP. No. 752, 79th Cong., 1st Sess. 10 (1945); STAFF OF SENATE COMM. ON THE JUDICIARY, 79TH CONG., 1ST SESS., REPORT ON THE ADMINISTRATIVE PROCEDURE ACT 2 (Comm. Print 1945); ATTORNEY GENERAL'S COMM. ON ADMINISTRATIVE PROCEDURE, FINAL REPORT, ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, S. Doc. No. 8, 77th Cong., 1st Sess. 7 (1941); ATTORNEY GENERAL'S MANUAL ON THE ADMINISTRATIVE PROCEDURE ACT 9–10 (1947). *See generally* Freedman, *Administrative Procedure and the Control of Foreign Direct Investment*, 119 U. PA. L. REV. 1, 4–18 (1970).

[15] *See* H.R. REP. No. 1980, 70th Cong., 2d Sess. 19 (1946); STAFF OF SENATE COMM. ON THE JUDICIARY, 79th CONG., 1st SESS., REPORT ON THE ADMINISTRATIVE PROCEDURE ACT 2 (Comm. Print 1945); ATTORNEY GENERAL'S MEMORANDUM ON THE PUBLIC INFORMATION SECTION OF THE ADMINISTRATIVE PROCEDURE ACT 4 (1967). For example, the APA's definition of agency apparently includes the U.S. Commission on Civil Rights, which investigates, evaluates and recommends, but does not adjudicate. Civil Rights Act of 1957, Pub. L. No. 85–315, Pt. I, 71 Stat. 635, *as amended*, 42 U.S.C. § 1975c (Supp. V, 1970); Larche v. Hannah, 176 F Supp 791, 796 & n.15 (W.D. La. 1959 (Comm'n is an agency and subject to APA's adjudication provisions), *adopted in* 177 F. Supp. 816, 819 n.5 (W.D. La. 1959) (three-judge court), *rev'd on other grounds* 363 U.S. 420, 441, 452–53 (1960) (Comm'n is not subject to APA's adjudication provisions). *See also* Exec. Order No. 11,236, 3 C.F.R. 329 (1964–65 Compilation); Skolnick v. Parsons, 397 F.2d 523 (7th Cir. 1968) (President's Comm'n on Law Enforcement & Admin. of Justice).

[16] *Compare* International Paper Co. v. FPC, Civ. No. 69–5169 (S.D.N.Y., May 15, 1970) (typewritten opinion at 12–13) (staff of FPC is not a separate agency) (unreported; typewritten opinion filed in this action in the District Court, Civ. No. 1571–70, D.D.C.).

[17] The statutory definition of "agency" specifically excludes Congress and the courts of the United States, but does not specifically exclude the President. 5 U.S.C. § 551(1) (Supp. V, 1970).

[18] *See* Mississippi v. Johnson, 71 U.S. (4 Wall.) 475, 499–501 (1867).

[19] Reorganization Plan No. 2 of 1962, Pt. I, § 3, 3 C.F.R. 879, 879–80 (1959–63 Compilation), 5 U.S.C. § 133z–15 (1964).

[20] National Science Foundation Act of 1950, ch. 171, § 3(a) (1) & (6), 64 Stat. 149, *as amended*, 42 U.S.C. § 1862(a) (1) & (6) (1964); *see* Exec. Order No. 10,521, 3 C.F.R. 183 (1954–58 Compilation), 42 U.S.C. § 1862 (1964), *as amended by* Exe. Order No. 10,807, § 6(b), 3 C.F.R. 329, 331 (1959–63 Compilation), 42 U.S.C. § 1862 (1964)

[21] MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 2 OF 1962, PROVIDING FOR CERTAIN REORGANIZATIONS IN THE FIELD OF SCIENCE AND TECHNOLOGY, H.R. Doc. No. 372, 87th Cong., 2d Sess. (1962), *reproduced in* 108 CONG REC. 5439–40, 5456–57 (1962). *See also* H.R. REP. No. 34, 90th Cong., 1st Sess. 6 (1967); S. REP. No. 1137, 90th Cong., 2d Sess. 7 (1968).

[22] H.R. REP. No. 1635, 87th Cong., 2d Sess. 9 (1962), *quoting Hearings on Reorganization Plan No. 2 of 1962 Before the Subcomm. on Executive and Legislative Reorganization of the House Comm. on Gov't Operations*, 87th Cong., 2d Sess. 11 (1962) (statement of Elmer B. Staats, Deputy Director, Bureau of the Budget). *See also* 108 CONG. REC. 8469, 8471–72 (1962) (remarks of Reps. Anderson and Monagan). In 1968, the National Science Foundation Act of 1950 was amended to reflect the new distribution of functions. Pub. L. No. 90–407, 82 Stat. 360 (1968), 42 U.S.C. § 1862(a) (5) & (d) (Supp. V, 1970); *see* H.R. REP No. 34, 90th Cong., 1st Sess. 6, 21 (1967); S. REP. No. 1137, 90th Cong., 2d Sess. 7, 16 (1968). The Director of the OST was also expected to replace the President's Special Assistant for Science and Technology in the capacity of personal adviser to the President on scientific matters. *See* H.R. REP. No. 1635, *supra*, at 5; *Hearings, supra*, at 10–11, 13–15.

[23] Reorganization Act of 1949, ch. 226, § 6, 63 Stat. 205, *as amended*, 5 U.S.C. § 906 (Supp. V. 1970).

[24] A resolution disapproving the plan which created the OST was introduced in the House of Representatives, but did not pass. H.R. Res. 595, 87th Cong., 2d Sess. (1962); 108 CONG. REC. 8473 (1962).

[25] H.R. REP. No. 1635, 87th Cong., 2d Sess. 9 (1962).

[26] 108 CONG. REC. 8473 (1962) (statement of Rep. Holifield). *See also id.* at 8472 ("I think the very fact that this makes the scientific program more answerable to the Congress in itself justifies the establishment of this Office . . . .") (remarks of Rep. Holifield).

[27] The power of investigation has long been recognized as an incident of legislative power necessary to the enactment and effective enforcement of wise laws. *See, e.g.*, McGrain v. Daugherty, 273 U.S. 135 (1927). The chief limitation on congressional inquiry is that it must be exercised for valid legislative purposes and not in derogation of fundamental personal liberties. *See, e.g.*, Watkins v. United States, 354 U.S. 178, 187, 198 (1957). Congress has often delegated portions of its investigatory power to administrative agencies. *See* 1 K. DAVIS, ADMINISTRATIVE LAW TREATISE §§ 3.01.14 (1958, Supp. 1970).

[28] *See Hearings, supra* note 22, at 13–14 (remarks of Elmer B. Staats, Deputy Director, Bureau of the Budget, and of Reps. Anderson and Holifield).

[29] *See* Udall v. Tallman, 380 U.S. 1, 16, (1965):

"When faced with a problem of statutory construction, this Court shows great deference to the interpretation given the statute by the officers or agency charged with its administration.

[30] 32 Fed. Reg. 11,060 (1967).

[31] The Garwin Report is precisely the sort of evaluation the OST is authorized to undertake, *i.e.*, an evaluation of another agency's scientific program involving technological developments and applications. The National Science Foundation, focusing its efforts on basic science, had not gathered much information on technological applications and developments, nor had it studied agency programs. The Foundation's function of evaluating federal programs was transferred to the OST to improve performance in these very respects. *See* MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATIONS IN THE FIELD OF SCIENCE AND TECHNOLOGY, H.R. Doc. No. 372, 87th Cong., 2d Sess. (1962) *reproduced in* 108 CONG. REC. 5439–40, 5456–57 (1962); H.R. REP. No. 1635, 87th Cong., 2d Sess. 7–8 (1962).

[32] *See* pp. 17–19 *infra*.

[33] 5 U.S.C. § 552(b) (1)–(9) (Supp. V, 1970).

[34] Consumers Union of the United States, Inc. v. Veterans Administration, 301 F. Supp. 796, 806–08 (S.D.N.Y. 1969); *see* General Services Administration v. Benson, 415 F. 2d 878, 880 (9th Cir. 1969). *See generally* 1 K. DAVIS, ADMINISTRATIVE LAW TREATISE § 3A.6 (Supp. 1970).

[35] *Compare* United Steelworkers v. United States, 361 U.S. 39, 55–59 (1959) (Frankfurter, J., concurring) (80-day injunction against strike causing national emergency is mandatory), *with* Hecht Co. v. Bowles, 321 U.S. 321, 326–31 (1944) (injunction against violation of Emergency Price Control Act is discretionary). *See* Note, *Judicial Discretion and the Freedom of Information Act: Disclosure Denied: Consumers Union v. Veterans Administration*, 45 IND. L. J. 421 (1970). It is well established that Congress may modify the usually strict standards for equitable relief in providing for injunctions in aid of important federal policies. *See, e.g.*, Virginia Ry. v. System Fed'n. No. 40, 300 U.S. 515, 552, (1937).

[36] U.S.C. § 1002 (1964).

[37] 5 U.S.C. § 552 (Supp. V, 1970); *see* Bristol-Myers Co. v. FTC, 138 U.S. App. D.C. 22, 25, 424 F.2d 935, 938 (1970); American Mail Line, Ltd. v. Gulick, 133 U.S. App. D.C. 382, 385, 411 F.2d 696, 699 (1969); H.R. REP. No. 1497, 89th Cong., 2d Sess. 1–2, 5–6, 8–9, 11 (1966); S. REP. No. 813, 89th Cong., 1st Sess. 3–6, 8, 10( 1965).

[38] This section does not authorize withholding information or limit the availability of records to the public, except as specifically stated in this section. 5 U.S.C. § 552(c) (Supp. V, 1970); *see* Epstein v. Resor, 421 F.2d 930, 932 (9th Cir.), *cert. denied*, 398 U.S. 965 (1970).

[39] One statement in the report of the Senate Committee on the Judiciary specifically supports the conclusion that Congress intended to eliminate equitable discretion. S. REP. No. 813, 89th Con., 1st Sess. 3 (1965) ("It is essential that agency personnel, *and the courts as well*, be given definitive guidelines in setting information policies.") (emphasis added). The report of the House Committee on Government Operations contains language indicating that district courts do have discretion. H.R. REP. No. 1497, 89th Cong., 2d Sess. 9 (1966) ("The Court will have authority *whenever it considers such action equitable and appropriate* to enjoin the agency from withholding its records and to order the production of agency records improperly withheld." (emphasis added). However, the House report was published after the Senate had passed its bill. Since only the Senate report was considered by both houses of Congress, the Senate Committee's reading of the Act is a better indication of legislative intent when the two reports conflict. *See* Consumers Union of the United States, Inc. v. Veterans Administration, 301 F. Supp. 796, 801 (S.D. N.Y. 1969); Benson v. General Services Administration, 289 F. Supp. 590, 595 (W.D. Wash. 1968), *aff'd on other grounds*, 415 F.2d 878 (9th Cir. 1969); 1 K. DAVIS, ADMINISTRATIVE LAW TREATISE § 3A.2 (Supp. 1970).

[40] 5 U.S.C. § 552(b) (5) (Supp. V, 1970).

[41] *See* Grumman Aircraft Eng'r Corp. v. Renegotiation Bd., 138 U.S. App. D.C. 147, 151, 425 F. 2d 578, 582 (1970); Bristol Myers Co. v. FTC, 138 U.S. App. D.C. 22, 26, 424 F. 2d 935, 939 (1970); *see* H.R. REP. No. 1497, 89th Cong., 2d Sess. 10 (1966); S. REP. No. 813, 89th Cong., 2d Sess. 9 (1965). *See also* Freeman v. Seligson, 122 U.S. App. D.C. 56, 68–69, 405 F. 2d 1326, 1338–39 (1968); Machin v. Zuckert, 114 U.S. App. D.C. 335, 338–40, 316 F. 2d 336, 339–41 (1962), *cert. denied*, 375 U.S. 896 (1963); Boeing Airplane Co. v. Coggeshall, 108 U.S. App D.C. 106, 112, 280 F. 2d 654, 660 1960); note 42 *infra*.

[42] *Cf.* United States v. Morgan, 313 U.S. 409, 422 (1941); Morgan v. United States, 304 U.S. 1, 18 (1938); Carl Zeiss Stifting v. V.E.B. Carl Zeiss, Jena, 40 F.R.D. 318, 325–26 (D.D.C. 1966), *aff'd per curiam*, 128 U.S. App. D.C. 10, 384 F. 2d 979, *cert. denied*, 389 U.S. 952 (1967).

[43] Ackerly v. Ley, 137 U.S. App. D.C. 133, 138, 420 F. 2d 1336, 1341 (1969).

[44] The rationale of the exemption for internal communications indicates that the exemption should be available in connection with the Garwin Report even if it was pre-

pared for an agency by outside experts. The Government may have a special need for the opinions and recommendations of temporary consultants, and those individuals should be able to give their judgments freely without fear of publicity. A document like the Garwin Report should therefore be treated as an intra-agency memorandum of the agency which solicited it.

[45] 5 U.S.C. § 552(b)(4) (Supp. V. 1970). Other statutory exemptions also protect information that might be communicated to the Government on a confidential basis. The Act exempts "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," and matters "contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." *Id.*, § 552(b) (6) and (8). The Act also exempts "investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency." *Id.*, § 552(b)(7). This exemption covers files prepared for both civil and criminal law enforcement. *See* Clement Bros. v. NLRB, 282 F. Supp. 540, 542 (N.D. Ga. 1968).

[46] *See* H.R. REP. No. 1497, 89th Cong., 2d Sess. 10 (1966); S. REP. No. 813 8th Cong., 1st Sess. 9 (1965); Grumman Aircraft Eng'r Corp. v. Renegotiation Bd., 138 U.S. App. D.C. 147, 151, 425 F.2d 578, 582 (1970); Bristol-Myers Co. v. FTC, 138 U.S. App. D.C. 22, 25–26, 424 F.2d 935, 938–39 (1970); Consumers Union of the United States, Inc., v. Veterans Administration, 301 F. Supp. 796, 802–04 (S.D.N.Y. 1969). *See also* Roviaro v. United States, 353 U.S. 53 (1957) (identity of informers); *In re* Quarles & Butler, 158 U.S. 532 (1895); Vogel v. Gruaz, 110 U.S. 311 (1884); Freeman v. Seligson, 132 U.S. App. D.C. 56, 69–70 405 F.2d 1326, 1339–40 (1968); Westinghouse Elec. Corp. v. City of Burlington, 122 U.S. App. D.C. 65, 70–74, 351 F.2d 762, 767–71 (1965); Boeing Airplane Co. v. Coggeshall, 108 U.S. App. D.C. 106, 113, 280 F.2d 654, 661 (1960); Arnstein v. United States, 54 U.S. App. D.C. 199, 203–04, 296 F. 946, 950–51 (1924).

[47] The exemption for confidential information is available only with respect to information received from sources outside the Government. The Garwin panel's Report is therefore eligible for this exemption only to the extent it contains private information given confidentially by panel member or information obtained from nongovernmental parties on a confidential basis. *See* Grumman Aircraft Eng'r Corp. v. Renegotiation Bd., 138 U.S. App. D.C. 147, 151, 425 F.2d 578, 582 (1970); Consumers Union of the United States, Inc. v. Veterans Administration, 301 F. Supp. 796, 802–04 (S.D.N.Y.) 1969).

[48] 5 U.S.C. § 552(b)(1) (Supp. V, 1970). The other exemptions require a de novo determination of whether the record the Government seeks to withhold contains information of the class protected by an exemption. But to qualify for the first exemption, the Government need show only that the record is "specifically required . . . to be kept secret" pursuant to an Executive order; review of the propriety of keeping it secret is then limited to determining that the administrative decision was not arbitrary and capricious. *See* Epstein v. Resor, 421, F.2d 930, 933 (9th Cir.), *cert. denied,* 398 U.S. 965 (1970). *See also* United States v. Reynolds, 345 U.S. 1 (1953); Totten v. United States, 92, U.S. 105 (1875); *cf.* Dayton v. Dulles, 102 U.S. App. D.C. 372, 378, 254 F.2d 71, 77 (1957), *rev'd on other grounds,* 357 U.S. 144 (1958).

[49] Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

5 U.S.C. § (a)(3) (Supp. V, 1970).

[50] *See* Grumman Aircraft Eng'r Corp. v. Renegotiation Bd., 138 U.S. App. D.C. 147, 150, 425 F.2d 578, 581 (1970). *See also* Boeing Airplane Co. v. Coggeshall, 108 U.S. App. D.C. 106, 114, 280 F.2d 654, 662 (1960):

"In the present case, where no military or state secrets are involved, and where the generally meritorious basis of the subpoena— including necessity—has been established, we think it proper for the District Judge to examine *in camera* the individual papers which are alleged to be privileged, and direct exclusions or excisions in a manner deemed lawful and appropriate, keeping in mind the issues of the case, the nature and importance of the interests supporting the claim of privilege, and the fundamental policy of free societies that justice is usually promoted by disclosure rather than secrecy [citations omitted]"

[51] *See* United States v. Reynolds, 345 U.S. 1, 8–10 (1953); Epstein v. Resor, 421 F.2d 930, 933 (9th Cir.), *Cert. denied,* 398 U.S. 965 (1970).

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CONCURRING OPINION

WILKEY, *Circuit Judge,* concurring: I concur in the result reached and in the court's opinion, except on the point of equitable discretion discussed below.

I.

It is necessary to remand this matter to the trial court, because the trial court did err in not holding the Garwin Report a record of an agency subject to the Freedom of Information Act, and therefore quite logically did not proceed to consider the exemptions under that Act.

II.

Conceivably on remand the trial court may also reach a question of constitutional privilege.[1] To put this question in perspective, it must be understood that the privilege against disclosure of the decision-making process is a tri-partite privilege, because precisely the same privilege in conducting certain aspects of public business exists for the legislative and judicial branches as well as for the executive. It arises from two sources, one common law and the other constitutional.

Historically, and apart from the Constitution, the privilege against public disclosure or disclosure to other co-equal branches of the Government arises from the commonsense common law principle that not all public business can be transacted completely in the open, that public officials are entitled to the private advice of their subordinates and to confer among themselves freely and frankly, without fear of disclosure, otherwise the advice received and the exchange of views may not be as frank and honest as the public good requires.

"No doubt all of us at times have wished that we might have been able to sit in and listen to the deliberation of judges in conference, to an executive session of a Congressional committee or to a Cabinet meeting in order to find out the basis for a particular action or decision. However, Government could not function if it was permissible to go behind judicial, legislative or executive action and to demand a full accounting from all subordinates who may have been called upon to make a recommendation in the matter. Such a process would be self-defeating. It is the President, not the White House staff, the heads of departments and agencies, not their subordinates, the judges, not their law clerks, and members of Congress, not their executive assistants, who are accountable to the people for official public actions within their jurisdiction. Thus, whether the advice they receive and act on is good or bad there can be no shifting of ultimate responsibility.[2]

Insofar as the executive branch is concerned, most, if not all, of the information protected by this common law privilege is now covered by the fifth exemption to the Freedom of Information Act which exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." [3]

The constitutional part of the privilege arises from the principle of the separation of powers among the legislative, executive and judicial branches of our Government. This at first glance may not seem relevant here, where the appellants are private citizens relying on the Freedom of Information Act, but it puts the matter in a different focus to know that originally Congressman Henry S. Reuss had sought to obtain this Report over a period of months. Whatever justification lies behind the refusal of his request has a bearing on appellants' rights here. Only after both Dr. DuBridge and Mr. Ehrlichman, Assistant to the President, had declined to accede to the Congressman's request—on the ground that "the report was in the nature of inter- and intra-agency memoranda which contained opinions, conclusions and recommendations prepared for the advice of the President"—did the appellants make their request.

Appellants invoked the Freedom of Information Act in support of their request, but as the court's opinion points out—without deciding whether the refusal of the Assistant to the President was justified or not—". . . . while his [Mr. Reuss'] right as a citizen to obtain the Report under the Act is equal to that of appellants, his right as a Congressman is presumably greater" (footnote 6). Obviously Congress could not surmount constitutional barriers—if such exist in this or any other given case—by conferring upon any member of the general public a right which Congress, neither individually or collectively, possesses. Water does not naturally rise higher than its source.

Recognition of the necessity, on both grounds cited above, of preserving the confidentiality of certain papers and deliberations has come from all three branches of our Government. A few examples demonstrate the universality and antiquity of the principles involved here.

While the constitutional privilege has been asserted most frequently in our history by the executive against the demands of the legislature, yet the Congress itself has always recognized a privilege for its own private papers and deliberations. Not only is there no provision or procedure for a demand by a private citizen for access to any papers deemed confidential, but no court subpoena is complied with by the Congress or its committees without a vote of the house concerned to turn over the documents willingly in response to the request of the court, thus properly preserving the co-equal separate status of that branch of the Government. For example,

"[N]o evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission." [4]

The judiciary, as perhaps inherently the weakest of the three branches, has most frequently reiterated the principle of separation of powers, the classic expression being in *Kilbourn* v. *Thompson:*

"It is . . . essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to

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Footnotes at end of article.

the exercise of the powers appropriate to its own department and no other." [5]

The reason for the separation of powers was well put by Mr. Justice Brandeis:

"The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency, but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but, by means of the inevitable friction incident to the distribution of governmental powers among three departments, to save the people from autocracy." [6]

When President Washington first declined to furnish the House of Representatives with a document requested by it, he gave as his reason for refusal,

"[I]t is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your requests." [7]

These examples of recognition by all three branches of a constitutional privilege to withhold certain documents under given circumstances not only show the tripartite nature of the constitutional privilege, but are relevant here, where the appellants are private citizens, because the original request for the Garwin Report stemmed from a Congressman and was denied by the executive on the grounds the validity of which is not yet finally determined. But it would be an absurdity to content that a Congressman—who is both citizen and Member of the House of Representatives—could not have access to a document in the executive branch, and yet another citizen could gain access on the strength of a statute enacted by Congress. Thus, if the exemptions to the Freedom of Information Act are found not to permit withholding of the information sought here, the executive may still assert a constitutional privilege on the ground that Congress may not compel by statute disclosure of information which it would not be entitled to receive directly upon request.

Part II of the court's opinion also expresses the view that Congress, in providing for *de novo* court review of agency refusals to disclose information, intended to *require* the courts to enjoin withholding of any agency record not exempted by the Act and not protected by a constitutional privilege. Congress, the opinion states, "did not intend to confer on district courts a general power to deny relief on equitable grounds apart from the exemptions in the Act itself." This quoted statement and related discussion relate to an issue which is not presented for decision in this case and is not likely to face the trial court on remand. There is no suggestion in the record that the District Court here denied relief on equitable grounds, nor is it likely that such grounds could be presented in the context of this case. It has been suggested that a court may, on equitable grounds, decline to require disclosure of records not covered by a specific exemption in the Act, where to order disclosure would irreparably invade personal privacy or cause the Government to violate an agreement with a private party that non-commercial and non-financial [8] information provided by him will be kept confidential.[9] There do not appear to be such equitable grounds for non-disclosure present in the instant case and I would not therefore reach the difficult question of statutory construction of the District Court's power in such circumstances.

The Act itself merely provides: "On complaint, the district court . . . *has jurisdiction to enjoin* the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." [10] It does not in terms require that such jurisdiction be exercised in all cases. The legislative history pulls in opposite directions on this question; the Senate Report states:

"It is the purpose of this [Act] to . . . establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language. . . . It is essential that agency personnel, *and the courts as well, be given definite guidelines* in setting information policies. Standards such as "for good cause" are certainly not sufficient." [11]

The House Report, on the other hand, relates that under the Act:

"The Court will have authority *whenever it considers such action equitable and appropriate* to enjoin the agency from withholding its records and to order the production of agency records improperly withheld.[12]

And a noted commentator has expressed the view that the denial of relief on equitable grounds is an appropriate course in certain circumstances.[13]

There is, no doubt, force to the majority's opinion that the thrust of the Act is to limit the grounds for agency withholding to the exemptions therein stated, and that the discretion of the court in enforcing the Act should thus be similarly curtailed. Nevertheless, because of the conflicting legislative history and the difficulty in determining congressional intent on this matter, I believe that pursuant to sound principles of judicial decision making, decision of this issue can and should await the case where it is squarely raised. I therefore express no view as to the correctness of the majority's suggestion that the courts are generally without equitable power to decline to order production of agency records in cases not specifically covered by exemption.

III.

Part III of the court's opinion is a summary of the laudable objectives of the Freedom of Information Act of assuring public access to information necessary to making informed decisions on public issues, but I respectfully suggest it is nevertheless unessential to our decision here. Since it forms part of the court's opinion, however, I think it should be made clear that neither the public nor the Congress is being denied *the facts* here in regard to the supersonic transport, and therefore recourse to legal action under the Freedom of Information Act as a practical matter was simply unnecessary.

Each of the persons who were asked by Dr. DuBridge to form the *ad hoc* panel to prepare the Report for the President could be called before the appropriate congressional committee and asked for his views on any aspect of the SST program. There is no reason why the views of these scientists and engineers cannot be made available to the Congress and to the public. The only matter about which they should not be asked is exactly what advice they gave the President. Furthermore, almost two years have gone by since they expressed their views to the President, and the opinions which they might now give to the Congress or to the public, in the light of additional information obtained, might be somewhat different from their best advice at the time they helped formulate the Garwin Report. Even without an appearance before a congressional committee any one or several of these scientists or engineers could be interviewed by the press or on TV, invited to write an article for a magazine or newspaper, or participate in public discussion in any form, in order to enlighten the public. There would be nothing improper in a public expression of individual opinion, so long as exactly what the person advised the President was not explicated.

As a matter of recorded fact, Dr. Richard Garwin, who chaired the panel, has done just that. He has appeared before *three* different congressional committees,[14] and has been publicly reported as stating that he had "said everything I have to say" in lengthy critical testimony about the SST before the three committees, although he appears to have carefully refrained from discussing the Garwin Report itself.[15]

Thus it appears that alternate means of obtaining the facts in regard to the SST, other than a lawsuit to comple production of the Garwin Report, are available both to the public and to Congress.[16] This hints at the possibility that what the appellants are seeking here is really the *advice* given the President of the United States by his subordinates, rather than the *facts* in regard to the SST program on which the public and the Congress can form an intelligent judgment. Viewed in this light, the issues may take on a different aspect from those framed by the appellants.

FOOTNOTES

[1] Although the trial court cited this as a second ground of its ruling, this issue has not been raised by the Government.

[2] Rogers, *The Right to Know Government Business From the Viewpoint of the Government Official*, 40 MARQ. L. REV. 83, 89 (1956). *See generally*, Kramer and Marcuse, *Executive Privilege—A Study of the Period 1953–1960*, 29 GEO. WASH. L. REV. 623 (1961).

[3] 5 U.S.C. § 552(b)(5) (Supp. V, 1970).

[4] H.R. Res. 427, 81st Cong., 2d Sess., 96 CONG. REC. 565–66 (1950); *see* H.R. Res. 460, 81st Cong., 2d Sess., 96 CONG. REC. 1400 (1950); H.R. Res. 465, 81st Cong., 2d Sess., 96 CONG. REC. 1695 (1950); H.R. Res. 469, 81st Cong., 2d Sess., 96 CONG. REC. 1765 (1950). Only recently, in a situation substantially the inverse of the present case, *i.e.*, a suit to *suppress* publication of congressional documents, the House indicated its displeasure with, and asserted its independence from, what it deemed an intrusion by the judiciary into its prerogatives with respect to its own documents. See *Hentoff* v. *Ichord*, No. 3028–70 (D.D.C. 28 Oct. 1970), and H.R. Res. 1306, 91st Cong., 2d Sess., 116 CONG. REC. H 11606, 11625 (daily ed. 14 Dec. 1970).

[5] 103 U.S. 168, 191 (1880).

[6] *Myers* v. *United States*, 272 U.S. 53, 293 (1926) (dissenting opinion).

[7] 1 RICHARDSON, MESSAGES AND PAPERS OF THE PRESIDENTS 196 (1896).

[8] The fourth exemption of the Freedom of Information Act exempts from disclosure "commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4) (Supp. V, 1970).

[9] Davis, *The Information Act: A Preliminary Analysis*, 34 U. CHI. L. REV. 761, 767, 787, 791, 802 (1967).

[10] 5 U.S.C. 552(a)(3) (1967). In *Hecht Co.* v. *Bowles*, 321 U.S. 321 (1944), the statute involved directed that upon complaint of the administrator of the Emergency Price Control Act an injunction *"shall be granted."* Nevertheless the Supreme Court held that the District Court could decline to issue an injunction if equitable considerations indicated that to be the appropriate result. Contrarily, in *United Steelworkers* v. *United States*, 361 U.S. 39 (1959), the Court impliedly held that under a statute which provided that District Court *"shall have jurisdiction"* to enjoin an industry-wide strike causing a national emergency, the trial judge had no equitable discretion to refuse to issue an injunction. (That conclusion was made explicit in the concurring opinion of Justices Frankfurter and Harlan.) The accommodation of these two precedents and their application to the statutory scheme of the Freedom of Information Act are, in my view, best accomplished in the context of a case where the issue is presented by the facts and argued by the parties.

[11] S. REP. No. 813, 89th Cong., 1st Sess. 3 (1965).

[12] H.R. REP. No. 1497, 89th Cong., 2d Sess. 9 (1966).

[13] Davis, *supra*, note, 7.

[14] *Hearings on H.R. 17755 Before the Subcomm. of the Senate Committee on Appropriations*, 91st Cong., 2d Sess., pt. 2, at 1621 (1970); *Hearings on Supersonic Transport Development Before the Subcomm. on Economy in Government of the Joint Economic Comm.*, 91st Cong., 2d Sess., pt. 4, at 904, 908 (1970); *Hearings on Department of Transportation Appropriations Before the Subcomm. on Dept. of Transportation and Related Agencies Appropriations of the House Comm. on Appropriations*, 91st Cong., 2d Sess., pt. 3 (Testimony of Members of Congress and Interested Individuals and Organizations) at 980 (1970).

[15] Dr. Garwin, at least, was interviewed by the *Saturday Review, The Washington Post*, and very likely a number of other media representatives. *See* Sutton, Is the SST Really Necessary, SATURDAY REVIEW, 15 Aug. 1970, at 14; Washington Post, 21 Dec. 1970, § A, at 2. According to the latter report:

"Garwin said he still did not feel free to discuss the study [made by the *ad hoc* panel at the request of the OST] itself, but he emphasized that he "said everything I have to say" about the SST in the course of critical testimony this year before three congressional committees."

These reports of Dr. Garwin's interviews with the press were quoted and discussed on the Senate Floor. *See* 116 CONG. REC. S 20921, S 20932 (daily ed. 21 Dec. 1970).

[16] Of course these considerations would not apply to personal advisors to the President such as members of the White House staff, who traditionally do not appear before Congress. But, as the court's opinion indicates, Dr. Garwin and his conferees, operating under the direction of the OST, are not thus restricted.

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## ADDRESS BY THE HONORABLE RICHARD HELMS TO THE AMERICAN SOCIETY OF NEWSPAPER EDITORS

Mr. STENNIS. Mr. President, on April 14, Mr. Richard Helms, Director of Central Intelligence, delivered an address to the American Society of Newspaper Editors, at a luncheon meeting here in Washington.

This was Mr. Helms' first public address since he became the Director of CIA in 1966, and it is an interesting and significant statement from one of our most respected and dedicated public servants.

Mr. Helms joined the Office of Strategic Services during World War II, after several years of newspaper work, and he has served in the intelligence field since that time. He has been with CIA since that Agency was established.

The entire speech will be of interest to all Americans, but I wish to draw particular attention to his statements concerning the reconciling of the security needs of an intelligence service with the basic principles of our democratic society.

I also point out with special emphasis two sentences that I believe deserve particular attention. He said:

The nation must to a degree take it on faith that we too are honorable men devoted to her service. I can assure you that we are, but I am precluded from demonstrating it to the public.

Mr. Richard Helms is, indeed, an honorable man, devoted to his Nation's service. He is also a man with great intellectual ability, wise in his judgments, who is a talented administrator and has a vast capacity for hard work. He is doing an outstanding job as Director of the Central Intelligence Agency. The country is very fortunate to have him serving in that capacity. It is with the highest satisfaction that, as chairman of the committee that has jurisdiction over his activities, I am able to say these things about his administration.

I ask unanimous consent that Mr. Helms' address be printed in the RECORD.

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

GLOBAL INTELLIGENCE AND THE DEMOCRATIC SOCIETY

Gentlemen: I welcome this opportunity to speak to you today about the place of an intelligence service in a democratic government.

In doing so, I recognize that there is a paradox which I hope can be dispelled:

On the one hand, I can assure you that the quality of foreign intelligence available to the United States Government in 1971 is better than it has ever been before.

On the other hand, at a time when it seems to me to be self-evident that our government must be kept fully informed on foreign developments, there is a persistent and growing body of criticism which questions the need and the propriety for a democratic society to have a Central Intelligence Agency.

I am not referring to the occasional criticism of CIA's performance—the question of whether we gave advance warning of this coup or that revolt, or how accurately we forecast the outcome of an election or a military operation.

By necessity, intelligence organizations do not publish the extent of their knowledge, and we neither confirm nor deny challenges of this nature. We answer to those we serve in the government.

What I *am* referring to are the assertions that the Central Intelligence Agency is an "invisible government,"—a law unto itself, engaged in provocative covert activities repugnant to a democratic society, and subject to no controls.

This is an outgrowth, I suppose, of an inherent American distaste for the peacetime gathering of intelligence. Our mission, in the eyes of many thoughtful Americans, may appear to be in conflict with some of the traditions and ideals of our free society. It is difficult for me to agree with this view, but I respect it. It is quite another matter when some of our critics—taking advantage of the traditional silence of those engaged in intelligence—say things that are either vicious, or just plain silly.

There is the charge, for example, that the Central Intelligence Agency is somehow involved in the world drug traffic. We are not. As fathers, we are concerned about the lives of our children and grandchildren, as are all of you. As an Agency, in fact, we are heavily engaged in tracing the foreign roots of the drug traffic for the Bureau of Narcotics and Dangerous Drugs, and this arrant nonsense helps not at all.

As a general rule we are silent, because we must maintain the security of our intelligence operations, but we also recognize that the people of the United States have a legitimate interest in every arm of their government. There is, fortunately, enough fact in the open record, and in the pertinent legislation, to meet that public interest.

I propose, therefore, to discuss with you the legislative charter of the CIA, the unique functions of a *central* intelligence organization, and finally—in order to reconcile our security requirements with the democratic society we serve—the role of intelligence in policy formulation, and the controls, checks, and balances under which we operate.

American intelligence did not begin with the National Security Act of 1947, which established the CIA. George Washington personally directed his espionage networks during the Revolutionary War. President Polk had a showdown with the Congress in 1846 about accounting for the funds he used "to employ individuals for the purpose of obtaining information." In the Civil War, the North hired the Pinkerton Agency to expand its intelligence services. The Department of State and our armed forces all have had long experience in the collection of information.

Why, then, a Central Intelligence Agency? The proximate cause cited by President Truman and the 80th Congress in 1947 was the experience of Pearl Harbor, when, in the words of President Truman:

". . . if there had been something like coordination of information in the government, it would have been more difficult, if not impossible, for the Japanese to succeed in the sneak attack. . . . In those days, the military did not know everything the State Department knew, and the diplomats did not have access to all the Army and Navy knew. The Army and Navy, in fact, had only a very informal arrangement to keep each other informed as to their plans."

The Central Intelligence Agency, therefore, was created not to replace, but to coordinate the existing intelligence elements of the United States Government.

Our charter, the National Security Act of 1947, provides that in the interest of national security the Central Intelligence Agency will advise the National Security Council on intelligence activities of the government, make recommendations to the National Security Council for the coordination of such activities, correlate and evaluate foreign intelligence, perform additional services of common concern, and such other functions and duties relating to intelligence as the National Security Council may direct.

This latter language was designed to enable us to conduct such foreign activities as the national government may find it convenient to assign to a "secret service." These activities have always been secondary to the production of intelligence, and under direct control by the Executive Branch. Obviously I can not go into any detail with you on such matters, and I do not intend to.

And may I emphasize at this point that the statute specifically forbids the Central Intelligence Agency to have any police, subpoena, or law-enforcement powers, or any domestic security functions. I can assure you that except for the normal responsibilities for protecting the physical security of our own personnel, our facilities, and our classified information, we do not have any such powers and functions; we have never sought any; we do not exercise any. In short, we do not target on American citizens.

In matters directly affecting the security of the United States, the President and his National Security Council want what we call "national" intelligence—evaluations which reflect the considered and agreed judgment of all of the intelligence components of the United States Government. The production and dissemination of this national intelligence is the responsibility and the primary function of the Central Intelligence Agency. We can produce these agreed evaluations, of course, only by consulting and coordinating the views of the entire intelligence community.

There is nothing arcane or mysterious about this term, "the intelligence community." It is simply a name for all of the intelligence assets at the disposal of the

United States—the CIA, the Defense Intelligence Agency, the intelligence components of the various armed services, the National Security Agency, the intelligence elements of the Department of State, and—when appropriate—those of the Federal Bureau of Investigation and the Atomic Energy Commission. They are all represented on the United States Intelligence Board. This board is chaired by the Director of Central Intelligence, not as the head of CIA, but as the principal intelligence adviser to the President and the National Security Council.

The United States Intelligence Board coordinates the assets of the United States for foreign intelligence collection, and sees to it that there are neither gaps nor unnecessary duplication in filling the information requirements of the nation's policy makers.

Just what are these national requirements for foreign intelligence?

There are the obvious ones, of course, in the era of thermonuclear deterrence: What is the scope of the strategic threat to U.S. security? What are current Soviet intentions? How soon will Communist China have an intercontinental ballistic missile?

America's intelligence assets, however, do not exist solely because of the Soviet and Chinese threat, or against the contingency of a new global conflict. The United States, as a world power, either is involved or may with little warning find itself involved in a wide range and variety of problems which require a broad and detailed base of foreign intelligence for the policy makers.

What, for instance, caused the fighting between Honduras and El Salvador, and what can be done to ease the situation?

What are the implications of impending British withdrawal from the Persian Gulf for the world's petroleum supplies?

Where are the pitfalls for the United States in the confrontation between black African nationalism and so-called White Southern Africa?

Or, for that matter, to give you an extreme example, how deep is the water alongside the docks in Djibouti? This question is not as farfetched as it may sound. If France should one day grant independence to French Somaliland—now formally the Territory of the Afars and Issas—the area would almost certainly be a source of contention between Ethiopia, which looks to the United States for support, and Somalia, which is highly dependent on the Soviet Union. What ships could be used to land a UN peace-keeping force—or unload relief shipments? Thus information on Djibouti could suddenly become necessary to the United States Government in an effort to *prevent* a new international crisis.

A mass of detailed knowledge is required, of course, for the planning of military operations, but I would like to stress that accurate intelligence is equally essential to the planning and implementation of actions taken to *forestall* conflict.

President Nixon put it this way in March 1969, when he visited CIA Headquarters:

"I look up on this organization . . . as one of the great instruments of our government for the preservation of peace, for the avoidance of war, and for the development of a society in which this kind of activity would not be as necessary, if necessary at all."

The ancient Romans said: "If you wish peace, prepare for war"—or, for that matter, "forewarned, forearmed." Certainly a potential aggressor is deterred if he finds that timely intelligence has enabled his prospective victim to take countermeasures. And when it comes to waging peace, it would be unthinkable to conclude a Strategic Arms Limitation agreement with the Soviet Union without the means for monitoring compliance.

The potential benefits of an arms limitation agreement are self-evident in terms of reduced threat, eased tension, and economy—but only if they can be achieved without endangering national security. That, in turn, requires that the agreement should be honored by each side, and the Soviets have traditionally rejected international on-site inspection. The United States, then, can safely undertake such an agreement, however desirable, only if it has adequate intelligence assets to assure itself that the Soviets are living up to their part.

If the two countries should agree that no new types of intercontinental missiles will be deployed, it would be incumbent on U.S. intelligence to verify that the Soviet Union is abiding by the bargain. If it should be agreed that there will be no further expansion of defenses against ballistic missiles, we must have the means of detecting new developments which might convert one of the regular Soviet air defense missile systems into an ABM network. We can be sure, of course, that if the Russians should decide to exceed agreed limitations, they will make that attempt with the greatest possible secrecy and concealment. U.S. intelligence, therefore, will have a major and vital role in any international agreement to limit strategic arms.

Every year at budget time, there is a debate over what portion of our national wealth we must assign to defense and survival—what weapons must we buy, and how many?

The United States and the Soviet Union each have a wide variety of choices among systems to be developed, and these choices interact. The key to choice is knowledge—knowledge of the accuracy, reliability, and numbers of Soviet ICBM's, knowledge of Soviet progress in advanced radars for ABM's, knowledge, if you will, of Soviet knowledge of our own progress.

Whatever the semantics of first strike, mutual deterrence, assured destruction capability, or equivalent megatonnage, the answers must come from an accurate measurement of Soviet offense against our defense, Soviet defense against our offensive capabilities.

If good intelligence can narrow down the choices, it can save the U.S. taxpayers many times its cost. But this prospect—however desirable—is secondary to enabling the policy-maker to arrive at informed decisions on the defense budget—or the instructions to the U.S. delegation at the SALT talks.

Intelligence collection, then, is essential to the maintenance of our defenses, but let me repeat once more my conviction that intelligence at the same time makes a major contribution to the much more attractive proposition of living in peace.

I have tried to give you some idea of the subject matter of intelligence requirements, but I must attach equal importance to the nature of the intelligence provided to the government.

I have already said that it must be a comprehensive appreciation of the situation, based on all available information, reflecting the coordinated end-product of the entire intelligence community.

It must also be rigorous in analysis, concentrated in depth, and above all, as objective as we can make it.

It is precisely in these respects that the Central Intelligence Agency makes its unique contribution.

First, of the departments I listed earlier which have components in the U.S. intelligence community, only the CIA is free from responsibilities for the formulation of policy.

And second, CIA is the only one whose primary mission is to collect, evaluate, and produce foreign intelligence.

Objectivity puts me on familiar ground as an old wire service hand, but it is even more important to an intelligence organization serving the policy maker. Without objectivity, there is no credibility, and an intelligence organization without credibility is of little use to those it serves.

We not only have no stake in policy debates, but we can not and must not take sides. The role of intelligence in policy formulation is limited to providing facts—the agreed facts—and the whole known range of facts—relevant to the problem under consideration. Our role extends to the estimative function—the projection of likely developments from the facts—but *not* to advocacy, or recommendations for one course of action or another.

As the President's principal intelligence officer, I am an adviser to the National Security Council, not a member, and when there is debate over alternative policy options, I do not and must not line up with either side.

If I should take sides and recommend one solution, the other side is going to suspect—if not believe—that the intelligence presentation has been stacked to support my position, and the credibility of CIA goes out the window.

Another unique attribute of the Central Intelligence Agency is the depth of professional expertise it can bring to bear on the finished intelligence product.

The *London Economist* a few years ago commented:

"Modern intelligence has to do with the painstaking collection and analysis of facts, the exercise of judgment, and clear and quick presentation. It is not simply what serious journalists would always produce if they had time; it is something more rigorous, continuous, and above all operational—that is to say, related to something that somebody wants to do or may be forced to do."

This is a good statement of the kindred aims of the intelligence services and the information media, but in a sense we are the reverse of a newspaper. The newspaper uses a relatively few collectors and analysts to serve a mass audience; we use a great many to hand-craft a special kind of report for a very few.

Even in this day of the Information Explosion, we read everything that comes into Washington—Department of State cables, Department of Defense traffic, our own reports, and the American and foreign information media. Then we bring to bear on that information every last bit of expert analysis at the service of the United States Government.

From the time this Agency was created, we have had to deal with the fact that some of our most important intelligence targets lie in totalitarian countries where collection is impeded by the security defenses of a police state—for example, Communist China.

In the face of such limitations, the analytical process can often extract meaningful conclusions from a volume of fragmentary information. To do so requires ingenious minds and much painstaking work. On Communist China, for instance, we have assembled a panel of experts in a broad field of specialties to devote full time to study, analysis, and reporting.

On this analytical team, for instance, the economist does not concern himself with Brazilian inflation one day and the Gross National Product of Nigeria the next, but concentrates on the *Chinese* economy—just as nuclear physicist concentrates on the progress China is making in nuclear weapons. With their support, the Old China Hand on the panel need not spread himself thin to master economics and weaponry, but can focus on what the Chinese—being Chinese—may do next.

The Cuban missile crisis of 1962 affords a good example of how this across-the-board analysis—comprehensive in its scope and intensive in its concentration—serves the policy-maker.

In the early Sixties, thousands of Cubans fled their country. Many brought valuable

information. Many, in good faith, brought misinformation. Some purposefully told stories intended to provoke U.S. action against Castro. And a few were Castro's agents, planted to mislead us.

It was obvious at the time—from shipping intelligence alone—that the Soviets were engaged in a substantial military aid program in Cuba, but the crucial question was whether there were any strategic offensive weapons on the island that threatened the continental United States.

The intelligence community established a joint interrogation center in Florida to sift and winnow and evaluate these thousands of reports centrally. It was a mammoth undertaking, but where possible we checked every weapon report against U–2 photography of Cuba, and against other intelligence sources.

One report, for example, claimed there were underground submarine pens at Matanzas. Our analysts had the facts to disprove this, given the geological structure of the shoreline and the crucial inshore depths in the bay.

Another report alleged that light bombers were being stored in a particular cave. We have a comprehensive speleological survey of Cuba, which showed that this particular cave curved sharply a few yards inside its entrance—too sharply to admit a vehicle, let alone an aircraft. We also had the photography to show that there had been no work to alter the shape of that cave.

A merchant seaman gave us a detailed description of what he thought might be a rounded concrete dome covering missiles—complete with range and bearing from the pier where his ship had docked. A map of Havana and a recent city directory established that it was a relatively new movie theater.

The watch for missiles, however, was complicated by the fact that there were defensive surface-to-air missiles in Cuba, and to the untrained observer, one missile looks pretty much like another. In fact, some of these "missile reports" we checked turned out to be torpedoes, fuel tanks, and even industrial pipe and mooring buoys.

Our intelligence files in Washington, however—thanks to U–2 photography of the Soviet Union and to a number of well-placed and courageous Russians who helped us—included a wealth of information on Soviet missile systems. We had descriptions or photographs of the missiles, their transporters and other associated equipment, and characteristic sites in the Soviet Union. We knew what to look for.

Guided by this background, the interrogators were able to sort out from the flood of reports the ones which established the arrival of MRBM and IRBM equipment in Cuba. We were then able to locate the sites under construction by reconnaissance, and tell President Kennedy the exact scope of the threat.

There remained the question—for the policy makers—of what to do. This required a determination—among other essentials—of whether the Soviets would be able to strike at the United States with their weapons in Cuba in the event of a U.S. ultimatum.

Again thanks to all our collection sources, and to the central analytical process, we were able to inform the President precisely how long it would take to make the missile sites in Cuba operational. The rest of the Cuban missile crisis is history.

The intelligence analysts who participate in reaching these conclusions, of course, run the gamut from some who have just begun an intelligence career to others who have devoted a lifetime of study to their specialty. To strike a more typical mean, one of the experts who enabled us to give President Johnson a correct appreciation of the Middle Eastern situation in May, 1967—just before the start of the June War—held a doctorate in Near Eastern studies, had lived for several years in Arab villages, and at the time had spent 12 years with CIA.

I do not wish to imply that we require a Ph.D. of everybody we hire, but in general we recruit our principal substantive analysts from the graduate schools or in the field, with some years of area study or overseas background already under their belts.

About half of our substantive analysts have graduate degrees. Almost one in three has his doctorate. We have capabilities in 113 foreign languages and dialects. We can call on the expertise of anthropologists, chemists, metallurgists, medical doctors, psychiatrists, botanists, geologists, engineers of every variety, statisticians, mathematicians archaeologists, and foresters. Our people have academic degrees in 298 major fields of specialization from accounting to zoology.

And as catholic and competent as our "in-house" capability may be, we do not stop there. We make copious use of consultants, from the established "think-tanks" to selected individuals outside government whose help we seek on specific problems. To the extent that security considerations permit, in fact, we encourage our substantive analysts to participate—identified as CIA employees—in professional conferences, and to write for publication, so that they will remain in touch with the great centers of study and knowledge in this country, and benefit thereby.

Ironically, our efforts to obtain foreign intelligence in this country have generated some of the more virulent criticism of the Central Intelligence Agency. It is a fact that we have, as I said, no domestic security role, but if there is a chance that a private American citizen traveling abroad has acquired foreign information that can be useful to the American policy-maker, we are certainly going to try to interview him. If there is a competent young graduate student who is interested in working for the United States Government, we may well try to hire him.

The trouble is that to those who insist on seeing us as a pernicious and pervasive secret government, our words "interview" and "hire" translate into suborn, subvert, and seduce, or something worse. We use no compulsion. If a posible source of information does not want to talk to us, we go away quietly. If some student groups object to our recruiting on campus, we fall back to the nearest Federal Office Building. Similarly, we welcome the opportunity to place research contracts with the universities, but again, these are strictly voluntary.

And so I come to the fundamental question of reconciling the security needs of an intelligence service with the basic principles of our democratic society. At the root of the problem is secrecy, because it is axiomatic that an intelligence service—whatever type of government it serves—must wrap itself in as much secrecy as possible in order to operate effectively.

George Washington on July 26, 1777, wrote to Colonel Elias Dayton, his intelligence chief for New Jersey:

"The necessity of procuring good intelligence is apparent and need not be further urged—all that remains for me to add is that you keep the whole matter as secret as possible. For upon Secrecy, Success depends in most Enterprizes of the kind, and for want of it, they are generally defeated, however well planned and promising."

Nations have vital secrets they are determined to keep secret. They surround them with the greatest possible security, and they play rough in preserving those defenses. Accordingly, the intelligence service which is assigned to obtain this information must begin by looking to its own security.

If, at the outset of our operation, the opposition can identify the agents involved, or the means we propose to use, the enterprise is doomed from the start.

If, at the conclusion, we disclose how much we know, the opposition is handed on a platter highly damaging indications of how and where we obtained the information, in what way his security is vulnerable, and who may have helped us. He can seal off the breach in his defenses, roll up the agents, and shut off the flow of information.

If any significant portion of our secret organization is exposed, it gives the opposition a starting point to work against us. That is why we seek to preserve a secrecy which, I should note, is honored without question in many thoroughly democratic countries.

In Great Britain and other European nations it would be unheard of for the head of the intelligence services to talk to a non-governmental group as I am talking to you today. In London, in fact, the location of the intelligence service headquarters and the identity of its chief have long been respected as state secrets by the British public, press, and officialdom.

In contrast, here in the United States the area of intelligence over which we can maintain the traditional secrecy has been steadily reduced.

We have made it our practice not to answer criticism. Former Senator Saltonstall summed it up pretty well when he said that in an open society like ours, it is impossible to inform the public without informing our enemies.

I cannot, then, give you an easy answer to the objections raised by those who consider intelligence work incompatible with democratic principles. The nation must to a degree take it on faith that we too are honorable men devoted to her service. I can assure you that we are, but I am precluded from demonstrating it to the public.

I *can* assure you that what I have asked you to take on faith, the elected officials of the United States Government watch over extensively, intensively, and contiunously.

Starting with the Executive Branch, the Central Intelligence Agency operates under the constant supervision and direction of the National Security Council. No significant foreign program of any kind is undertaken without the prior approval of an NSC subcommittee which includes representatives of the President, the Secretary of State, and the Secretary of Defense.

In addition, we report periodically and in detail on the whole range of foreign intelligence activities to the President's Foreign Intelligence Advisory Board, a group of men who have distinguished themselves in government, industry, education, and the professions. This board, originally created in 1956 under the chairmanship of Dr. James Killian of M.I.T., has been headed by General John E. Hull, Mr. Clark Clifford, General Maxwell D. Taylor, and currently by retired Admiral George W. Anderson.

Our budget is gone over line for line by the Office of Management and Budget—and by the appropriate committees of the Congress as well.

There are, in fact, four committees of the Congress to which we have reported regularly—not just on our foreign intelligence product but on our operations, our plans, and our organization—ever since CIA was created in 1947. Periodic calls for a "Congressional watchdog committee" may have suggested to you that no such mechanism exists. On the contrary, there are elements of the Appropriations and Armed Services committees in both the Senate and the House which—like the President's Board—are told more about our activities and our operations than is known to most of the personnel in our highly compartmented Agency. But how, in the end, we are to be supervised is for Congress itself to decide.

In short, the Central Intelligence Agency is not and can not be its own master. It is the servant of the United States Government, undertaking what that government asks it to do, under the directives and controls the

government has established. We make no foreign policy.

All in all, I think, President Truman and the 80th Congress recognized that the CIA was to be both an important implement of the government, and a legitimate object of public concern. They sought to recognize the inherent contradiction between intelligence methods and democratic principles by establishing elaborate controls.

The same objectivity which makes us useful to our government and our country leaves us uncomfortably aware of our ambiguous place in it. We may chafe under the criticism we do not answer, but we understand as well as anyone the difficulties and the contradictions of conducting foreign intelligence operations on behalf of a free society.

We are, after all, a part of this democracy, and we believe in it. We would not want to see our work distort its values and its principles. We propose to adapt intelligence to American society, not vice versa.

We believe, and I say this solemnly, that our work is necessary to permit this country to grow on in a fearsome world and to find its way into a better and more peaceful one.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time set aside under the previous order for the transaction of routine morning business having now expired, morning business is closed.

## EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The PRESIDING OFFICER (Mr. ALLEN). Pursuant to the previous order, the Chair lays before the Senate S. 1557, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The first 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.

AMENDMENT NOS. 37 TO 42

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Alabama (Mr. ALLEN) and myself, I send to the desk proposed amendments to the pending bill; and I ask unanimous consent that the proposed amendments be printed in the RECORD.

The PRESIDING OFFICER (Mr. BENTSEN). The amendments will be received and printed, and will lie on the table; and, without objection, the amendments will be printed in the RECORD.

The amendments—Nos. 37 to 42—submitted by Mr. ERVIN and Mr. ALLEN, are as follows:

AMENDMENT NO. 37

At the end of the bill insert the following:

"LIMITATION

"SEC. 17. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to deny to any child the right to attend the public school nearest his home which is operated for the education of children of his age and ability."

AMENDMENT NO. 38

At the end of the bill insert the following:

"LIMITATION

"SEC. 17. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to require any State or local public school board to assign any member of a public school faulty to any public school other than the school in which such member contracts to serve."

AMENDMENT NO. 39

At the end of the bill insert the following:

"TITLE II—BUSING LIMITATION

"SEC. 201. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

"SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district."

AMENDMENT NO. 40

At the end of the bill insert the following:

DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

SEC. 17. (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

AMENDMENT NO. 41

At the end of the bill insert the following:

TITLE II—OPEN ENROLLMENT IN STUDENT ASSIGNMENTS TO PUBLIC SCHOOLS

SEC. 201. The Civil Rights Act of 1964 (42 U.S.C. 1971, 1975a–1975d, 2000a–2000h–6) is amended by adding at the end thereof the following new title:

"TITLE XIII—PUBLIC SCHOOL—OPEN ENROLLMENT

"SEC. 1201. As used in this title—

"(a) 'State' means any State, district, Commonwealth, territory, or possession of the United States.

"(b) 'Public school' means any elementary or secondary educational institution, which is operated by a State, subdivision of a State, or governmental agency within a State, or any elementary or secondary educational institution which is operated, in whole or in part, from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(c) 'School board' means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

"(d) 'Student' means any person required or permitted by State law to attend a public school for the purpose of receiving instruction.

"(e) 'Parent' means any parent, adoptive parent, guardian, or legal or actual custodian of a student.

"(f) 'Faculty' means the administrative and teaching force of a public school system or a public school.

"(g) 'Open enrollment system' means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

"SEC. 1202. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, such financial assistance from any such program or activity on account of the racial composition of the student body at any public school or in any class at any public school in any case whatever where the school board operating such public school or class maintains in respect to such public school and class a open enrollment system as defined in section 1201(g).

"SEC. 1203. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold or threaten to withhold, any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

"SEC. 1204. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity of any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce any school board operating such public school system to close any public school, and transfer the students from it to another public school for the purpose of altering in any way the racial composition of the student body at any public school.

"SEC. 1205. No department, agency, officer, or employee of the United States em-

powered to extend Federal financial assistance to any program or activity at any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school system to transfer any member of any public school faculty from the public school in which the member of the faculty contracts to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school.

"SEC. 1206. Whenever any department, agency, officer, or employee of the United States violates or threatens to violate section 1202, section 1203, section 1204, or section 1205 of this Act, the school board aggrieved by the violation or threatened violation, or the parent of any student affected or to be affected by the violation or threatened violation, or any student affected or to be affected by the violation or threatened violation, or any member of any faculty affected or to be affected by the violation or threatened violation may bring a civil action against the United States in the district court of the United States complaining of the violation or threatened violation, and the district court of the United States shall have jurisdiction to try and determine the civil action irrespective of the value or the amount involved in it and enter such judgment or issue such order as may be necessary or appropriate to redress the violation or prevent the threatened violation. Any civil action against the United States under this section may be prosecuted in the judicial district in which the school board aggrieved by the violation or threatened violation has its principal office, or in the judicial district in which any school affected or to be affected by the violation or threatened violation is located, or in the judicial district in which a parent of a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a member of a faculty affected or to be affected by the violation or threatened violation resides, or in the judicial district encompassing the District of Columbia. The United States hereby expressly consents to be sued in any civil action authorized by this section, and hereby expressly agrees that any judgment entered or order issued in any such civil action shall be binding on the United States and its offending department, agency, officer, or employee, subject to the right of the United States to secure an appellate review of the judgment or order by appeal or certiorari as is provided by law with respect to judgments or orders entered against the United States in other civil actions in which the United States is a defendant.

"SEC. 1207. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with an open enrollment system as defined in section 1201(g) of this Act, or requiring any school board to transport any student from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with an open enrollment system as defined in section 1201(g) of this Act, or requiring any school board to close any school and transfer the students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provisions of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract."

AMENDMENT NO. 42

At the end of the bill insert the following:

"LIMITATION

"SEC. 17. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to require any State or local public school board or any other State or local agency empowered to assign children to public schools to transport any child from one place to another place, or from one school to another school, or from one school district to another school district to alter the racial composition of the student body at any public school."

## 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. 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.

## ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered. (This order was subsequently changed to provide for the Senate to adjourn until 9:45 a.m. tomorrow.)

## ORDER FOR RECOGNITION OF SENATOR MANSFIELD TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow morning, immediately following the recognition of the two leaders under the standing order, and prior to the recognition of the Senator from Iowa (Mr. HUGHES) under the previous order, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) 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 second assistant legislative clerk proceeded to call the roll.

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

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

## EXECUTIVE SESSION

The PRESIDING OFFICER (Mr. BENTSEN). The hour of 12:45 p.m. having arrived, in accordance with the previous order, the Senate will go into executive session.

## ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

The PRESIDING OFFICER. The Chair lays before the Senate the resolution of ratification to Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, together with understandings and declarations, which the clerk will state.

The assistant legislative clerk read as follows:

*Resolved, (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, signed at Mexico City on April 1, 1968 (Ex. H, 91–2), with the following understanding and declarations:

I

That the United States Government understands the reference in Article 3 of the treaty to "its own legislation" to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purpose of this treaty and its protocols, or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

That the United States Government takes note of the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the contracting parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny noncontracting parties transit and transport privileges.

That as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the treaty.

II

That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore the United States Government understands the definition contained in Article 5 of the treaty as necessarily encom-

passing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the contracting parties under paragraph 1 of Article 18.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with contracting parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires it to act with respect to the territories of contracting parties.

The PRESIDING OFFICER. The question is on agreeing to the understandings and declarations, as reported by the committee, to the resolution of ratification.

The understandings and declarations were agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. AIKEN. Mr. President, last Wednesday, April 14, the majority leader had printed in the RECORD the Treaty for the Prohibition of Nuclear Weapons in Latin America. That treaty, to which the United States is not a party, has been signed by 17 Latin American nations.

Latin American nations by that treaty undertake to use nuclear materials only for peaceful purposes. The treaty prohibits contracting parties from producing, testing, or possessing nuclear weapons in their territories.

I make this brief statement about the Latin American treaty not only to commend those nations for their self-denying and sensible action in precluding the testing and use of these weapons but also as background for a brief discussion of the protocol we have before us today.

Protocol II is designed for the signature of states possessing nuclear weapons. In brief, this protocol commits the United States not to contribute in any way to the violation of the Latin American treaty and not to threaten or to use nuclear weapons against the Latin American States for which the treaty is in force.

The understandings and declarations which accompany the resolution of ratification are set forth in the committee report which was printed in the RECORD last week.

Full hearings have been held on the Protocol, including the testimony of Admiral Moorer speaking for the Joint Chiefs of Staff. Admiral Moorer testified, "I actively support the ratification of Protocol II," bearing in mind the understandings and declarations to which I have referred. Those understandings and reservations relate to U.S. military and transit privileges and to the fact that the United States' pledge not to use nuclear weapons would not apply in the event of an armed attack by a party with the assistance of a nuclear weapon state.

The Committee on Foreign Relations knows of no opposition to ratification of Protocol II and commends its approval to the Senate as an act of goodwill and understanding toward our Latin American neighbors.

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

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

ADDITIONAL PROTOCOL II

The undersigned Plenipotentiaries furnished with full powers by their respective Governments,

*Convinced* that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons,

*Aware* that the non-proliferation of nuclear weapons is not an end in itself but, rather, as means of achieving general and complete disarmament at a later stage, and

*Desiring* to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards promoting and strengthening a world at peace, based on mutual respect and sovereign equality of States,

*Have agreed as follows:*

*Article* 1. The statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this instrument is an annex, shall be fully respected by the Parties to this Protocol in all its express aims and provisions.

*Article* 2. The Governments represented by the undersigned Plenipotentiaries undertake, therefore, not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies in accordance with article 4 thereof.

*Article* 3. The Governments represented by the undersigned Plenipotentiaries also undertake not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

*Article* 4. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the definitions of territory and nuclear weapons set forth in articles 3 and 5 of the Treaty shall be applicable to this Protocol, as well as the provisions regarding ratification, reservations, denunciation, authentic texts and registration contained in articles 26, 27, 30 and 31 of the Treaty.

*Article* 5. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers, found to be in good and due form, hereby sign this Additional Protocol on behalf of their respective Governments.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the vote on the resolution of ratification.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The first 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. CHILES). Without objection, it is so ordered.

The hour of 1 o'clock having arrived, the question is on agreeing to the resolution of ratification as amended by the understandings and declarations. The yeas and nays having been previously ordered, the clerk will call the roll.

Mr. PACKWOOD. 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. PACKWOOD. 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 question is on agreeing to the resolution of ratification, as amended, by the understandings and declarations. The yeas and nays having been previously ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Utah (Mr. Moss) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the

Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Connecticut (Mr. WEICKER) is absent to attend the funeral of a friend.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), the Senator from Kansas (Mr. PEARSON), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The yeas and nays resulted—yeas 70, nays 0, as follows:

[No. 41 Ex.]

YEAS—70

| | | |
|---|---|---|
| Aiken | Dole | Muskie |
| Allen | Dominick | Nelson |
| Allott | Eastland | Packwood |
| Anderson | Ellender | Pastore |
| Baker | Ervin | Pell |
| Beall | Fulbright | Percy |
| Bellmon | Griffin | Prouty |
| Bennett | Gurney | Proxmire |
| Bentsen | Hansen | Ribicoff |
| Bible | Hruska | Roth |
| Boggs | Hughes | Schweiker |
| Brooke | Inouye | Scott |
| Buckley | Jackson | Smith |
| Burdick | Jordan, N.C. | Sparkman |
| Byrd, Va. | Jordan, Idaho | Spong |
| Byrd, W. Va. | Long | Stennis |
| Case | Mansfield | Stevenson |
| Chiles | Mathias | Symington |
| Church | McClellan | Taft |
| Cook | McGee | Thurmond |
| Cooper | McGovern | Tunney |
| Cotton | Metcalf | Young |
| Cranston | Miller | |
| Curtis | Mondale | |

NAYS—0

NOT VOTING—30

| | | |
|---|---|---|
| Bayh | Hart | Moss |
| Brock | Hartke | Mundt |
| Cannon | Hatfield | Pearson |
| Eagleton | Hollings | Randolph |
| Fannin | Humphrey | Saxbe |
| Fong | Javits | Stevens |
| Gambrell | Kennedy | Talmadge |
| Goldwater | Magnuson | Tower |
| Gravel | McIntyre | Weicker |
| Harris | Montoya | Williams |

The PRESIDING OFFICER (Mr. CHILES in the chair). Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification, with the understandings and declarations is agreed to.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

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

## ORDER FOR ADJOURNMENT TO TOMORROW AT 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

(This order was subsequently changed to provide for the Senate to adjourn until 9:45 a.m. tomorrow.)

## AUTHORIZATION FOR ALL COMMITTEES TO MEET DURING THE SESSION OF THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, with the concurrence and approval of the distinguished minority leader, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate tomorrow.

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

## EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The PRESIDING OFFICER. The Chair lays before the Senate the pending business, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. PELL. Mr. President, as chairman of the Subcommittee on Education, I have reported to the Senate, at the direction of the Senate Committee on Labor and Public Welfare, and now call up for action S. 1557, a bill which seeks to improve the quality of education for all our Nation's children.

Mr. President, at this point I yield to the Senator from Connecticut (Mr. RIBICOFF).

AMENDMENT NO. 46

Mr. RIBICOFF. Mr. President, I call up my amendment at the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment offered by Mr. RIBICOFF is as follows:

Designate the text of the bill as reported "Title I" and add the following new title:

TITLE II

SEC. 101. (a) There are authorized to be appropriated to the Commissioner, for the purpose of carrying out title I of this Act, $1,000,000,000 for the fiscal year ending June 30, 1974, and the same amount for the fiscal year ending June 30, 1975.

(b) None of the funds authorized under section 101(a) shall be available for expenditure under the provisions of section 8(a)(2) of title I.

SEC. 202. It is the purpose of this title—

(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

DEFINITIONS

SEC. 301. As used in this title, except when otherwise specified—

(a) The term "minority group isolation" means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term "minority group isolated" refers to a school in which such condition of minority group isolation exists.

(b) The term "school" means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

(c) The term "noncooperating local educational agency" means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this title.

(d) The term "cooperating local educational agency" means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this title.

(e) The term "State" means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

(f) The term "Standard Metropolitan Statistical Area" or "SMSA" means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of any standard metropolitan statistical area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this title.

(g) The term "Federal educational funds" means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

THE PLAN

SEC. 401. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this title, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

SEC. 402. The plan developed by each such SMSA agency shall—

(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1985, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and

magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this title and to report periodically to the Secretary on the extent of compliance with the requirements of this title;

(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of section 402(d);

(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this title shall be made; and

(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

SEC. 403. (a) The plan required by section 402 must be submitted to and approved by the Secretary no later than July 1, 1975.

(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

SEC. 404. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this title or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 402(d).

SEC. 405. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 402(d).

SEC. 406. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this title are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a non-cooperating local educational agency: *Provided,* That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

SEC. 407. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this title Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia, and the cities of Falls Church and Alexandria in Virginia, nothwithstanding the provisions of section 301(f) of this title.

(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided,* That the existence of noncooperating local educational agencies within the SMSA shall not affect the status of cooperating local educational agencies.

SEC. 408. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

FINANCIAL ASSISTANCE

SEC. 501. PLANNING FUNDS.—

(a) Within six months of the date of enactment of this Act, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this title.

(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this title may apply for funds authorized to be appropriated by this title.

(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMSA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this title, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

SEC. 502. (a) Each year following the implementation of an approved plan, cooperating local educational agencies, through their SMSA agency, may submit to the Secretary applications for financial assistance.

(b) An application for assistance under this title may be approved by the Secretary only it he determines that—

(1) such application—

(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this title; and

(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this title;

(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this title;

(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted, in an increase in the percentage of racial separation in any school.

(4) no part of the assistance provided under this title shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this title be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this title, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

(2) providing additional staff members including paraprofessionals to provide guidance, counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant in this title: *Provided,* That in the review and approval of SMSA plans under this title, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

(6) expanding or altering facilities to accommodate students transferred under the plan;

(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this title;

(8) planning and evaluation activities and expenses of administration;

(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

(10) other specially designed programs or projects which meet the purpose of this title.

(e) No funds granted under this title may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this title may apply to the Secretary for funds authorized to be appropriated by this section.

RESTRICTIONS OF FEDERAL FINANCIAL ASSISTANCE

SEC. 601. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds: *Provided,* That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility of cooperating local educational agencies in the SMSA to receive Federal educational funds.

(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this title, and no State that continues to provide State funds or assistance after July 1, 1975, to any noncooperating local educational agency under section 401 (a) shall be entitled to receive any Federal educational funds.

APPROPRIATIONS

SEC. 701. (a) For the fiscal years beginning July 1, 1973, and July 1, 1974, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

SEC. 702. For the fiscal years beginning July 1, 1975, and for each of the nine fiscal

years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out of this title.

SEC. 703. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

JUDICIAL REVIEW

SEC. 801. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this title may petition the Secretary for an expedited hearing of his complaint.

(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this title are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia Circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

LAWS REPEALED

SEC. 901. The following provisions of law are hereby repealed:

(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

(d) Sections 102(d) and 205(f) of the Demonstration Cities and Metropolitan Development Act of 1966.

(e) Section 401(b) of the Civil Rights Act of 1964.

Mr. PELL. Mr. President, the bill that we have reported is, I believe, an affirmative step which recognizes the fact that one way to improve the quality of education is to aid the process of establishing and maintaining stable, quality, integrated schools and eliminating or preventing minority group isolation.

Recognizing that these goals cause great expenditures of funds by local school districts, the committee recommends to the Senate a program which will, first, encourage comprehensive planning for the elimination of minority group isolation; second, provide financial assistance to encourage the establishment and maintenance or stable, quality, integrated schools; third, assist in elimination of minority group isolation; and, fourth, aid schoolchildren to overcome the educational disadvantages of minority group isolation.

This bill, which was hammered out after much study and discussion by members or our committee, met with the unanimous approval of all the members. It was reported without a single dissenting vote, and I am pleased to note has the support of the administration.

I have studied the well-documented statement made on the Senate floor last Wednesday by the Junior Senator from Mississippi (Mr. STENNIS). His discussion of the extent of minority group isolation throughout the country was most thorough and most expert. Indeed, it is statistics like those appended to his statement which moved the committee to report S. 1557 in the form that it is in before the Senate. The bill recognizes the urgent problems in the North as well as those in the South. What is most important is that in establishing programs to meet these problems, North and South are treated equally. This measure does just what the junior Senator from Mississippi asks; it does away with the distinction between de facto and de jure; it says to the North and South you have problems which must be dealt with; and it provides a mechanism for a local educational agency to alleviate those problems. I commend and congratulate the Senator for his most useful statement for it points up the necessity for the measure pending before the Senate.

The bill itself authorizes the expenditure of $1.5 billion over the next 2 fiscal years and is allocated as follows:

First, $1,020,000,000, or 68 percent of the funds, is apportioned to the States for programs to establish and maintain quality integrated schools, and eliminate, reduce, and prevent minority group isolation;

Second, $225,000,000, or 5 percent of the funds, is to be used for metropolitan area programs for cooperative integrated schools, education, parks, and planning for the elimination of minority group isolation;

Third, $135,000,000, or 9 percent of the funds, is to be made available to the Commissioner of Education to be used at his discretion.

Fourth, $45,000,000, or 3 percent of the funds, is to be used to develop children's educational television, specifically designed to reach the goals of this proposed legislation;

Fifth, $45,000,000, or 3 percent of the funds, is to be used to develop bilingual, bicultural programs, specifically designed to reach the goals of this proposed legislation;

Sixth, $15,000,000, or 1 percent of the funds, is to be used for attorneys' fees in successful litigation to bring about compliance with Federal law; and

Seventh, $15,000,000, or 1 percent of the funds, is to be used for evaluation of programs under the bill.

Mr. President, in the second session of the 91st Congress the President sent to the Congress a proposal which would, if enacted, have aided desegregating school districts to meet the expenses growing out of desegregation activities. At the same time, $75 million from previously authorized sources was appropriated for immediate use. As the President's proposal was being considered by the committees of both Houses, that $75 million was being used for urgent projects.

In the fall of last year a report was issued by certain interested groups which seemed to indicate that errors had been made in either the allocation of funds to local school districts by the Department of Health, Education, and Welfare, or utilization of the allocated funds at the local level. These allegations, while denied in part by HEW, made it difficult to bring the President's proposal before the Senate. Nevertheless, the committee struggled with that proposal, as well as a substitute. Attempts were made to bring about a meeting of the minds, a consensus if you will, which would be acceptable to those with divergent views on this most important subject.

In the closing moments of the 91st Congress, a bill somewhat akin to the President's proposal was received from the House by the Senate. However, there was such concern over the necessity for a comprehensive approach that that bill was not acted upon.

This year both the President's proposal, S. 195, the Emergency School Aid Act of 1971, introduced by Senator JAVITS, and a substitute proposal, S. 683, the Quality Integrated Education Act of 1971, introduced by Senator MONDALE, were introduced in the Senate and hearings were held immediately. Subsequently, S. 1283, the Urban Education Improvement Act of 1971, was introduced by Senator RIBICOFF. As chairman of the Subcommittee on Education, I attempted to take the approaches found in the bills and weave them together. And here, I would like to commend all the members of the committee for their cooperative attitude. What we sought to do was bring before the Senate a bill which was affirmative in nature, which recognized the various problems throughout the Nation, and which treated them uniformly.

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

Mr. PELL. Mr. President, before yielding, 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. PELL. 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. DOMINICK. Mr. President, will the Senator yield?

Mr. PELL. I am glad to yield to my colleague from Colorado.

AMENDMENT NO 43

Mr. DOMINICK. Mr. President, I send to the desk an amendment for printing only in connection with the pending bill.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. DOMINICK. I thank the Senator from Rhode Island for yielding.

In connection with the printing, I ask unanimous consent that my individual views in the report be set forth in the RECORD at this point.

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

INDIVIDUAL VIEWS OF MR. DOMINICK

Although I join in the majority opinion recommending passage of the Emergency

School Aid and Quality Integrated Education Act of 1971, as reported by the Labor and Public Welfare Committee, I do so without waiving my strong objections to the Section 11 provision for attorney's fees. The bill's questionable basic concept that quality education must include a total social experience which is improved by quotas from different races, a concept upon which many witnesses disagree, can be largely overcome with wise administration. Therefore, I believe that the very laudable objective of the bill can be accomplished. That objective has not changed since last year when President Nixon declared it to be the attainment of a "system in which education throughout the Nation is both equal and excellent, and in which racial barriers cease to exist."

Section 11, however, is not essential to the purpose of the bill and it can and should be deleted. I see no reason why the general taxpayer should indiscriminately subsidize lawyers, as this bill provides, particularly in view of the very strong divergent views about what constitutes "education" and what methods improve its quality as have been expressed before the Select Committee on Equal Education Opportunity. I will, therefore, offer an amendment to delete Section 11.

Subject to the above reservations, I support the bill which retains strong components for improving education in racially impacted areas in the North and South, and strong components for assisting school districts in meeting special problems incident to court-ordered desegregation. These are the two particular areas of concern singled out by President Nixon in his school desegregation message to the Congress on March 24, 1970.

Section 11 allows the plaintiff of a successful federal suit against any local school district, state, or the Department of Health, Education and Welfare to recover reasonable attorney's fees from the federal government for failure to comply with the provisions of this bill, Title I of the Elementary and Secondary Education Act of 1965, Title VI of the Civil Rights Act of 1964, or the provisions of the Fourteenth Amendment pertaining to elementary or secondary education.

SECTION 11 LACKS SUFFICIENT CONTROLS AND PRIORITIES

Section 11 contains no language to control the kinds of suits brought by private attorneys but rather it leaves the whole question of resource allocation to the whim of private litigants. To qualify for "reasonable attorneys' fees" suits need not establish a new principle of law, need not clarify a previously neglected area, need not be a part of a coordinated approach, or even avoid duplication. Whereas recent legislation, such as the 1964 Civil Rights Act provided, reasonable attorneys' fees as the "court may deem just" in "in the court's discretion", Section 11 preempts such discretionary court authority and assumes that legal fees should be assessed, that the litigants' cause was meritorious, and that the litigant needed federal legal assistance if the court finds that "the proceedings were necessary to bring about compliance." Also, it must be noted that the attorneys' fees authorized under the 1964 Civil Rights Act were for suits against private persons and not for suits against tax-supported school districts, states, and federal agencies.

To further compound the problems of uncontrolled attorney fee reimbursements, Section 11 extends coverage to elementary and secondary education discrimination suits brought under Title VI of the 1964 Civil Rights Act or the Fourteenth Amendment and to Title I of the Elementary and Secondary Education Act of 1965. Inclusion of Title I would expand the coverage of Section 11 to all 15,400 school districts receiving Title I aid.

SECTION 11 WILL STIMULATE LITIGATION

Despite the good intention of encouraging only valid and meritorious suits, Section 11 will stimulate much unjustified litigation against those least able to afford the large legal expenses normally incurred in protracted school desegregation litigation—the financially, troubled local school districts. Not only does Section 11 stimulate the institution of litigation, but it discourages negotiation and settlement of compliance suits because the plaintiff must pay his attorneys' fees unless he is able to force the dispute to final court disposition so he will be entitled to recover attorneys' fees.

On the other side of the coin, a poor school district threatened by a parent might well comply with demands regardless of their merit rather than contest them and risk the incurring of heavy attornys' expenses.

Section 11 also tends to put the entire burden of school desegregation litigation on the already overburdened federal courts. Many suits for enforcement of the Fourteenth Amendment with respect to the operation of public schools are now litigated in state courts, particularly in the North and West where some states have stricter nondiscrimination laws than the federal statutes. But since counsel fees are to be made available only in federal courts, potential litigants would have an enormous incentive to sue there under Section 11.

ATTORNEY'S FEE RESERVE DISPROPORTIONATELY FUNDED

One cannot assume that the above-discussed abuses can be avoided or their effect nullified by treating attorneys' fees as a matter of secondary importance to be largely ignored. Out of all proportion to its importance, Section 11 is given paramount funding priorities which treat it as the single-most important section in the bill. In very explicit language which was mysteriously lacking when the scope of the section was being defined, the reserve fund for attorneys' fees is to receive $5 million through FY '72 and $10 million more through FY '73 regardless of whether complying school districts receive a cent. All other provisions of the bill are funded on a percentage basis contingent upon appropriations. Additionally, all Section 11 funds are to remain available until expended whereas most other provisions in the bill are funded only through the succeeding fiscal year for which they are appropriated. To put the figure of $15 million in proper perspective, one must realize that the annual budget for the Education Section of the Civil Rights Division, Department of Justice, is approximately $1 million.

SECTION 11 IS UNNECESSARY

Perhaps some of the above abuses could be endured if there were some compelling reason for Section 11, but there is not. Potential Section 11 plaintiffs have access to more legal assistance than most private litigants. Section 407(a) of the Civil Rights Act of 1964 provides that the Attorney General is authorized to institute a civil action against the school board on behalf of a complaining parent if the school board is depriving the parent's child of the equal protection of the laws and if the complaint is meritorious, the complainants are unable to initiate and maintain appropriate legal proceedings for relief, and the institution of the action will materially further public education desegregation. Section 215 of the Economic Opportunity Amendments of 1966 provide "legal advice and legal representation to persons when they are unable to afford the services of a private attorney" through the OEO Legal Services Program. Also, potential complainants can institute termination proceedings through administrative channels provided for by Title VI of the Civil Rights Act of 1964 against federally assisted schools which practice discrimination. In addition, parents of children discriminated against have access to many special private funds, such as the NAACP Legal Defense Fund and the Lawyers Constitutional Defense Committee.

In summary, Section 11 should be deleted in its entirety to avoid subsidizing private lawyers. Section 11 fails to control or delineate the scope of coverage or the resource priorities for reimbursement; it discriminates in favor of the complainant to the detriment of the defendant; it contains disproportionate priorities and funding levels; and it is unnecessary as adequate remedies are available under present laws.

Mr. PELL. Mr. President, I believe that S. 1557 does what so many of us on the committee sought to do. It brings before the Senate a bill that is an affirmative step which is a recognition of the problems throughout our Nation and seeks to treat them uniformly.

After the hearings were completed, the subcommittee met in executive sessions, conferences were held with the administration's representatives and a proposal was hammered out. It should be noted here that this proposal was ordered reported to the Senate with a unanimous vote, albeit that certain features were not supported by all members of the committee.

I would add for the record that the meetings we had, while private in nature, were certainly not secret in nature, as they have been characterized in the press.

Basically, this bill makes every local education agency eligible for assistance if that local education agency has a problem with minority group isolation in its schools and if it adopts a comprehensive district-wide plan for its elimination to the maximum extent possible. As a part of that plan, it must establish and maintain at least one stable, quality, integrated school containing: a substantial proportion of children from an educationally advantaged background, and a proportion of minority group children which is substantially representative of the student population of the district.

As part of the comprehensive plan, attempts to eliminate or reduce racial isolation are fundable, while a school district with a comprehensive plan may receive funds to assist in meeting the additional cost of implementing court-ordered and title VI desegregation plans.

Funds would be provided for the following activities:

First. New curriculums and instructional methods to support a program of integrated instruction, including instruction in language and cultural heritage of minority groups;

Second. Remedial services;

Third. Guidance and counseling services designed to promote mutual understanding between minority group and non-minority group parents, students, and teachers;

Fourth. Administrative and auxiliary services;

Fifth. Community activities including public information efforts;

Sixth. Recruiting, hiring, and training teacher aides with preference given to parents;

Seventh. Inservice teacher training;

Eighth. Planning, evaluation, and dissemination of information;

Ninth. Minor alteration and remodeling limited to 10 percent of a grant.

Of the funds allocated to each State, up to 22 percent is to be reserved for promising pilot programs in racially or ethnically isolated schools; 15 percent of the funds is reserved for funding private, nonprofit groups for programs to promote equality of educational opportunities.

The bill also includes a group of special programs and projects:

Attorney's fees: 1 percent of the funds authorized are reserved to reimburse attorney's fees and costs not otherwise reimbursed in successful lawsuits pertaining to elementary and secondary education under this act, title VI, the 14th amendment, and title I of ESEA.

Children's television: 3 percent of the funds authorized are earmarked for the production of integrated children's television programs utilizing modern television techniques.

Bilingual-bicultural programs: 3 percent of the funds are reserved for programs to meet the special educational needs of children from environments in which a dominant language is other than English who, because of language and cultural barriers, do not receive equality of educational opportunity.

Metropolitan area programs: 15 percent of the authorized funds are reserved for metropolitan area projects including:

The construction of two integrated education parks;

Grants to metropolitan area school districts for the joint development of plans to eliminate minority group isolation in all schools in the area; and

Funds for suburban school districts with low concentrations of minority group students to establish, through cooperation with urban school districts, integrated schools with student bodies of which a substantial proportion are children from educationally advantaged backgrounds and which contain a proportion of minority group students equal to one-half the proportion of minority group students in the standard metropolitan statistical area.

The Commissioner's discretionary fund: 10 percent of the funds appropriated are reserved for the Commissioner to allocate as he sees fit among the various activities authorized in the act.

Evaluation: 1 percent of the funds appropriated are reserved for evaluation.

The bill also contains a detailed safeguard section which prohibits the funding of districts which have engaged in certain discriminatory activities, such as aid to private schools established to circumvent the law, discrimination against minority group teachers, separation within the school of minority and nonminority group children; and the limiting of participation in extracurricular activities by minority group children.

Mr. President, this bill is basically a project grant program for local education agencies which seek to integrate their schools. It could be titled a massive demonstration grant program which will enable each school district, if it chooses—and I emphasize this point—to find its own way of meeting the problem of minority group isolation. It does not point to one method over the other. It is general in nature and allows the local educational agency sufficient latitude to devise its own home-tailored plan.

This bill treats all sections of our country alike. Any local educational agency which submits a comprehensive plan and wants to participate can do so. It recognizes full well the fact of minority group isolation in the northern urban metropolitan areas, as well as other parts of the country, far outside the south. Indeed, it provides for instances of interdistrict cooperation to meet the problems of a minority group inner city surrounded by nonminority group suburbs.

Mr. President, I believe the bill is a fair and equitable one. It treats all parts of the country equally. It seeks to take an affirmative step in that it recognizes the need for stable, quality integrated schools and provides for Federal assistance to attain that goal.

One of the most salient facts developed in the hearings on this subject was the reaction of the witnesses to a request for a definition of desegregation and integration. The witnesses queried testified that desegregation is merely a mechanical shifting of bodies, arrived at by many means; an effort which looked to numerical balance; an administrative act. However, integration was defined as an affirmative step which called for the cooperation of school administrators, teachers, parents, and the students. The witnesses strongly supported the integration concept and agreed that the bill should call for those affirmative steps. It should be noted that about half of the witnesses supported the idea of no bill at all rather than a bill which merely aided the desegregation process.

The bill before the Senate embodies these affirmative steps of which I speak. It was arrived at by close cooperation by the minority and majority and the administration. Its approach is balanced.

Finally, it is a bill which treats the North and South exactly alike, and it is a bill which is completely voluntary in nature.

I believe S. 1557 is a bill which deserves and should have the support of the Senate.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the following members of the personal staff of the distinguished Senator from Connecticut (Mr. RIBICOFF) be allowed the privilege of the floor during consideration of the amendment offered by the Senator from Connecticut: John Koskinen and Ted Leary.

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

Mr. MONDALE. Mr. President, in that connection, I also ask unanimous consent that Mr. William Smith, staff director, Francis Hennigan, minority staff director, and Bert Carp, associate counsel, be allowed the privilege of the floor during debate on this bill.

The distinguished Senator from New York (Mr. JAVITS) is not here but I also ask unanimous consent that his staff representative, Leonard P. Strickman be permitted the privilege of the floor, as also Mr. Emon Mahony, staff adviser to the distinguished Senator from Arkansas (Mr. MCCLELLAN).

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

Mr. MONDALE. Mr. President, first of all, I wish to express my deep appreciation and admiration for the work of the Subcommittee on Education under the inspired leadership of the gifted Senator from Rhode Island (Mr. PELL). I do not recall ever reading a record on any educational issue which I felt to be as complete, as thorough, and as relevant as the record compiled under the leadership of Chairman PELL. It is a balanced record, one which seeks to look at the real problems—and I do not think there is any issue in education which involves more real problems than this.

I think, as a result of his leadership, not only did the committee come out with a bipartisan, united measure, and one which enjoys the support of the administration as well, but I think this measure represents and incorporates all of the best and most hopeful ideas that we have been able to discover to deal with this most complex, explosive, and yet at the same time most important issue in American education, and indeed in America, today.

I therefore wish to state as strongly as I can my deep admiration for the contribution which the gifted Senator from Rhode Island has made on this issue, and indeed on all the issues affecting American education.

Mr. PELL. I thank my friend from Minnesota. As he well knows, it is a reluctant leadership, but if it is useful I am grateful.

Mr. MONDALE. One would need great imagination to perceive what more could have been accomplished with enthusiastic leadership, then. But I think the Senator is indeed to be congratulated upon his accomplishment as represented in this, one of the most difficult measures to come out of our committee.

I should also like to commend the work of the members of the Republican side of the Senate Education Subcommittee. I think they, too, approached this difficult problem with an open and honest mind, and many of their contributions and comments have strengthened the measure as it comes before the Senate today.

I think one other Member of this body should be especially mentioned, though he is not a member of the Committee on Labor and Public Welfare, for his unique contribution in this field, for his intensive interest and concern, and I would say for the courage he has demonstrated on the complex and tragic issue of racial and minority isolation in America today, and that is the Senator from Connecticut (Mr. RIBICOFF).

The pending amendment to this measure by the Senator from Connecticut is, in my opinion, the most courageous and perhaps most hopeful single effort that I have seen to deal with the

problem of the large ghetto and need to approach it from a metropolitan standpoint. I intend to support that measure, and am hopeful that the Senate will accept it as an amendment to the pending proposal.

FOCUS OF THE BILL

Mr. President, today marks the beginning of what may be a long and divisive debate. It has been speculated that this will be the major civil rights debate of this session. Amendments have no doubt been prepared to prohibit busing, to redirect the enforcement efforts of the Office for Civil Rights, to sanctify the neighborhood school, and to permit freedom of choice. I assume we will be debating those issues as we have in the past, year after year. I wish that did not have to be the case. For I believe it is time to focus instead on the needs and aspirations of millions of schoolchildren in whose eyes such issues are simply not relevant.

For nearly 17 years our Nation has been embroiled in a national controversy over compliance with constitutionally required desegregation. In the process the Nation's children have been nearly forgotten.

Yet, the beginning of Federal concern for school desegregation, the Brown case, was rooted in deep concern for children and for their education.

It is this concern for our Nation's most important resource—our children—which we can and must recapture now. We now have an opportunity to focus on the goals and adopt the national policies that are essential if equal educational opportunity is to become a reality instead of something debated by politicians and lawyers. We now have an opportunity to focus on the educational objectives and the human needs that underlie the requirements of law and the Constitution. Let us begin to solve the problem of racial separation in our public schools in a sensitive, humane, and intelligent way, with an understanding of the complex educational issues involved, with reference to those hopeful strategies which have been developed over the past few years, and with the objective of better education for all our children firmly in mind.

MINORITY GROUP EDUCATION

First let us look at those human needs which this bill is designed to meet and the problems which it is designed to overcome.

In 1968, there were more than 43 million children in our public elementary and secondary schools. 9 million were from minority groups: 6.3 million were black; 2 million were of Spanish origin; 194,000 were from Oriental backgrounds; 178,000 were American Indian.

Most of these children are from families living in poverty. The vast majority are deprived of a decent education throughout their lives. They go to schools which are inferior—educationally, financially, and physically. They are years behind in achievement. Few go on to higher education.

The Select Committee on Equal Educational Opportunity has heard extensive testimony about the educational deprivation of these minority groups.

Look right here in our Nation's Capital which is more than 90 percent black. Look just a few blocks from where we are now. The average 12th grade student is 2.2 years behind students in other large cities. Worse yet, the further the school child in Washington, D.C., progresses in classes, the further behind he slips. When he was in the third grade, he was four-tenths of a year below the norm for other large cities.

Washington, D.C., is not unique. In Hartford, Conn., where black youngsters constitute only 44.5 percent of that city's students, the mean verbal IQ scores of a class of black elementary school children were traced from the fourth through the eighth grade. The children started with an IQ of 94 for the fourth grade. When they reached the eighth grade, the mean IQ scores were 86. I would remind the Senate that in Connecticut the children with IQ's of 80 and less are eligible for special schools for the mentally retarded. It is my impression that this destruction of the educational and human potential of American children in ghettos is taking place uniformly and massively throughout this country.

Of Texas' 2½ million students, 505,000 are Spanish surnamed. The Equal Education Committee heard testimony that the median education attainment of 2 million Mexican-Americans in Texas is only 6.2 years. Seventy-nine percent between the ages of 20 and 49 never completed the 12th grade. Twenty percent of our Mexican-American population has never been to school at all.

Half of our American Indian students never complete high school.

Look at Puerto Rican Americans. In Chicago, 18,000 Puerto Ricans are enrolled in public elementary schools. Only 4,000 are enrolled in the public high schools—reflecting a 60 percent dropout rate.

Of 7,810 Puerto Rican students in the public schools of Newark, N.J., last year only 96 survived to the 12th grade.

Less than 10 percent of Puerto Rican children in the third grade in New York read at grade level or above. By the time they get to the eighth grade, two-thirds are retarded by more than 3 years.

Some 7,000 school age Puerto Ricans live in Boston, Mass. Between 1965 and 1969 only four graduated from high school. In June 1970, seven graduated—four from parochial schools and three from public schools.

In giving these examples about the disadvantage and the destruction visited upon minority students, I do not wish to underestimate as well a similar disadvantage and destruction visited upon poor white children in schools around this country. Since this measure is designed to deal with the school integration and desegregation issue, my comments, however, are restricted to the purposes of the proposed legislation.

These are but a few of the tragic failings of school systems which are inadequate to cope with educational deprivation.

MINORITY GROUP ISOLATION

Why is this the case? I submit it is because these children are simply forgotten. They are forgotten because most are isolated in schools which are reserved for the poor, for the black, for the brown and the red, the yellow and for those whose language and culture may be different from most American children. Look at the facts about minority group isolation in public school.

Of our 6.2 million black students 53 percent are in schools which are 99 to 100 percent composed of minority group students and 39.7 percent are in 100 percent minority schools. Nearly one-third—31.7 percent—of our 2 million Spanish surnamed children are in 80 to 100 percent minority schools.

There are 34.7 million students from nonminority groups. They, too, are isolated. Also, there are 65.6 percent, or 22.8 million, in 95- to 100-percent nonminority schools.

The figures are even worse if we define the minority group isolated school as one which is predominantly minority group. Of our black students, 76.6 percent attend schools which are between 50- and 100-percent minority.

These are some of the facts about minority group school isolation in the United States. But what is the connection between isolated schools and educational achievement? What evidence do we have that integration is educationally beneficial?

THE BENEFITS OF INTEGRATION

Mr. President (Mr. ROTH), every major report and research study on the consequences of educational disadvantage has concluded that achievement and learning are greatly hindered by minority group isolation. The fact is that children educated in isolation suffer irreparable harm while, conversely, clear, positive, and lasting benefits result from education in integrated environments.

Both research and practical experience have demonstrated that these statements are true. The most notable research was conducted by Dr. James Coleman in his massive report entitled "Equality of Educational Opportunity," published by HEW in 1966. Dr. Coleman and those who have analyzed his data more recently have concluded:

1. The most important characteristic of a school in terms of educational achievement is the home background of its students. This is true for both white and black students. It is more important than teacher qualifications, the school's physical facilities, the amount of money spent per pupil, or the educational program in the school.

2. The racial and socio-economic composition of a classroom is an important and determining factor in educational achievement.

3. If the ratio of disadvantaged to advantaged students is such that the class is predominantly composed of students from advantaged backgrounds, the achievement levels of advantaged students and disadvantaged students will increase substantially.

For example, these studies have found large and consistent achievement differences between 12th grade black students who come from classrooms which were predominantly white and such students in isolated high schools where class-

rooms were predominantly black. Among black children from lower status families in lower status high schools, those in predominantly white classrooms score at the eight and one-half level as compared to only the seventh grade level for those black children who attended all black classrooms. Among higher status black pupils in higher status high schools, those from predominantly white classrooms scored at the ten and one-half-grade level as compared with the ninth grade level of those from all black classrooms.

Thus, both the racial composition of the classroom and the socio-economic status of the student body made significant and crucial differences in educational achievement.

Dr. Coleman summed up his findings when he testified before the Select Committee on Equal Educational Opportunity last year:

There is, however, another set of resources in the school which is not measured by educators' school quality measures. This is the educational resources brought to the school by other children, as a result of their home influences and earlier school influences.

These resources are things like reading material in the home, the amount and level of discussion in the home, the parents' level of education, the parents' interest in the child's education.

When these educational resources are related to a child's school performance—that is, the educational resources brought to the school by other children at school—the result showed a stronger relation than for any other resources in the school.

In effect, it means that if a child is going to school with other children who are performing at a high level, he, himself, will do better than if he was going to school with other children who are performing at a low level.

What appears to happen is that the educational resources held by other children are more important in increasing a child's own achievement than those that are allocated by the school board.

These conclusions are not only suggested by research, they are demonstrated by practical experience.

Last month, the Select Committee held hearings in San Francisco, Calif., and visited the integrated school system in Berkeley. The integrated elementary schools in Berkeley are composed of approximately 50 percent disadvantaged black students and 50 percent advantaged white students. Since these schools were desegregated several years ago, black students have advanced 60 percent faster than before desegregation when they were in isolated schools. White students have continued to advance at least at the 1.3 years per grade rate before integration. In some of Berkeley's schools, whites are achieving at a faster rate than before.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD certain excerpts from an article written by Dr. Pettigrew of Harvard published in a recently appearing book entitled "New Models for American Education" in which he summarizes the devastating need—if we believe in equal education—for quality integrated schools.

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

A RETURN TO THE COMMON SCHOOL: STUDENT COMPOSITION, ACHIEVEMENT, AND THE METROPOLITAN EDUCATIONAL PARK

(By Thomas F. Pettigrew)

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THE EMPIRICAL CASE FOR HETEROGENEOUS SCHOOLING

It is my opinion that competent research on race and desegregation is rare. Even authors of satisfactory studies frequently admit that they are not conclusive guides to policy makers and that continuous refinement is needed and (hopefully) foreseeable. However, while refinement is proceeding, children are still attending schools where they are not learning effectively. I believe that two recent federal studies, *Equality of Educational Opportunity* (the "Coleman Report"), and *Racial Isolation in the Public Schools*, issued by the U.S. Commission on Civil Rights, together with other related research, can provide us with an empirically based perspective for considering the critical policy issue of student mix. As we discuss these materials, readers without experience in considering statistical studies may find the first few pages a little heavy. However, I have attempted to keep the presentation aimed at the intelligent, concerned layman. The matter may be complicated, but if the policies I propose are controversial, the facts must be carefully scrutinized.

*The effect of social class*

No short summary of James Coleman's volume, *Equality of Educational Opportunity*, can do justice to this massive and complex work.[1] However, the report, and other research, justify a few generalizations regarding Negro academic achievement in elementary and secondary schools. The generalizations will help us to identify the factors associated with better learning.

In the Coleman data, two items of information that were consistently correlated with student performance on achievement tests were: "home background of the child" and "student body quality of the school." Though each of these factors is measured in the report by a number of indicators, both basically involve social class differences between students' families. These differences are most effectively represented by two separate measures related to parents' education. "Home background" of each student can be measured by the average length of the parents' education; and "student body quality" can be rated by a number representing the average education of parents of all of the students in a particular school. Measured in this way it is perhaps more accurate to speak of these factors as *individual social class* and *school social class*.

The individual social class factor is often said to be *the* principal correlate of achievement in the Coleman study; in other words, the most important piece of data for predicting a student's achievement score is his home background. However, the effectiveness of this predictor varies under different circumstances. For instance, individual social class proved a more important predictor of test scores for white than Negro children.[2] It proved of diminishing importance for all students as a predictor from the sixth to the twelfth grades.[3] (This decrease is consistent with considerable research on adolescents in American society that has shown the influence of family on student conduct recedes as the influence of student peers increases.) Consequently, the *school* social class factor, that is, the student mix, becomes particularly powerful in secondary education; and it is a far more important correlate of Negro than white achievement.

These trends can be elaborated upon by further analysis of Coleman Report data. For instance, the technique of regression analysis permits us to use the potential of the computer and classify each student in the data bank on the basis of two combined factors, his own individual social class plus the social class of his school. We then can attempt to determine what correlations, if any, exist between scores of students of the same age from equivalent home backgrounds in diverse sorts of school environments.

We find that the average verbal achievement levels for groups of Negro twelfth grade students range from slightly below an eighth grade level for low status students in lower status schools to almost an eleventh grade level for high status students in higher status schools. This is a decisive performance difference of three full grades.[4] School social class is thus an important predictor; moreover, it is a factor that may be changed by altering school politics, that is, revising boundary lines. Conversely, schools cannot affect individual social class. Therefore, school social class is the most important "school characteristic" we have found that is related to student achievement scores, white as well as Negro.

The Effect of Nonclass Factors on Achievement. The Coleman study also examined, by the use of regression analysis, a number of other identifiable school characteristics in order to see if differing patterns in these variables produced variations in student achievement. These other variables covered differences in (1) teacher ability and (2) school facilities and programs. Teacher ability variables, ranging from the individual teacher's years of teaching experience to years of formal education and vocabulary test score of the teacher, proved to be the more important of the two in their connection with achievement. Similar to school social class, the teacher ability factor is a stronger correlate of Negro than white student verbal achievement scores. Also it is much more powerful in the secondary than elementary years.[5]

By contrast, the factor of school facilities and programs does not relate highly to pupil performance. Once individual social class is controlled, for example, per pupil instructional expenditure in grades six, nine, and twelve is not significantly associated with achievement test scores, except in one notable case of marked extremes—Negro children in the South.[6] Nor do such school facilities or program variables as pupil-teacher ratio, library volumes, laboratories, number of extracurricular activities, comprehensiveness of the curriculum, strictness of pupil promotion, ability grouping, and school size reveal any important relationships with achievement.[7] These essentially negative findings concerning the influence of school facilities and programs have received great attention. They have apparently threatened many educators who ponder what chances for success their next school bond referendum or salary increase proposal will have. Much of this concern, however, may be caused by a misinterpretation of these results. The chief finding is that school social class is such a critical achievement correlate that, in a gross survey approach such as applied by Coleman, it simply overwhelms the smaller effects of other school factors.

Moreover, Coleman's findings do *not* mean that school facilities and programs must remain unimportant. What they do signify is that the diversity of facilities and programs now in public schools is not sufficiently great to explain, that is, cause, wide differences in

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Footnotes at end of article.

student performance. Consider the variable of pupil-teacher ratio. Most American classrooms range between twenty and forty students per teacher; and teachers are typically not trained to exploit the advantages to instruction of smaller classes. With such limited diversity, Coleman could not illustrate a consistent relationship between pupil-teacher ratio and pupil achievement scores. Yet one can still reasonably argue that it makes a major difference whether one is teaching 5 or 500 students, especially with teachers who adapt their styles to small groups of children. But Coleman could not test this proposition, since actual pupil-teacher ratios of 5 and 500 are virtually nonexistent. In short, Coleman could only test the effects of facility or program variables in present-day schools. Just where, below twenty and above forty pupils-per-teacher, the instructional ratio variable becomes crucial for student performance, must await better trained teachers, and more studies of genuinely varied, experimental school programs.

One final set of variables analyzed by Coleman, however, did correlate highly with verbal achievement. A factor called "student attitudes" included questions measuring the student's interest in school and reading, academic self-concept, and a sense of control of the environment.[8] Each student's responses to such objective questions were fed into the computer. Regression analyses compared these responses with the student's achievement scores and his expected achievement performance as predicted by his social class and other factors. Student attitude variables were important correlates of performance for all groups of children at all three of the grade levels tested (sixth, ninth, and twelfth grades). Yet different attitude variables predicted white and Negro achievement. The academic self-concept variable, measured by responses to such items as "how bright do you think you are in comparison with the other students in your grade?" proves far more significant for white achievement. But the control of the environment variable, measured, for example, by responses to items such as "is good luck more important than hard work for success?" is much more significant for Negro achievement.

Clearly, these attitude-achievement findings are significant because they tap an attitudinal process involving a two-way causal pattern. Negro children with a sense of environmental control do better in their school achievement, and those who do well in school achievement begin to gain a sense of environmental control. Nevertheless, it is tempting to speculate, as did Coleman, that each child faces a two-stage problem. First, he must learn that one can, within reasonably broad limits, act effectively upon his surroundings. Second, he must then have a good opinion of his own relative capabilities for mastering the environment. The critical stage for white children seems to be the second stage concerning the self-concept, while the critical stage for Negro children seems realistically enough to involve the possibility of manipulating an often harsh and overpowering environment. In any event, more detailed experimental work seems justified in order to pursue Coleman's fascinating speculation:

"Having experienced an unresponsive environment, the virtues of hard work, or diligent and extended effort achievement appear to such a [minority] child unlikely to be rewarding. As a consequence, he is likely to merely "adjust" to his environment, finding satisfaction in passive pursuits. It may well be, then, that one of the keys toward success for minorities which have experienced disadvantage and a particularly unresponsive environment—either in the home or the large society—is a change in this conception.[9]

Footnotes at end of article.

The Coleman Report's conclusions should, of course, be interpreted within the context of the data on which they are based. The Report is the target of considerable criticism, and it will be the subject of more in the future. In truth, the analysis and writing were necessarily performed in great haste; there exist major methodological problems, ranging from a relatively large rate of school system nonresponse to questionnaires, to special issues involved with a massive regression analysis of the data. Thus, a number of the Report's interpretations are open to strong challenge.

Yet all this careful scrutiny is, in its own way, a high tribute to this ambitious study. The Coleman group achieved a landmark accomplishment in an amazingly short span of time; and the Report and its data will influence American education for years to come. This is as it should be, for the Report's major conclusions will almost surely survive reanalysis and criticism.

*Other Studies of Factors Affecting Achievement.* Coleman's two chief conclusions, namely, the crucial importance of both individual social class and school social class as correlates of Negro and white achievement, are vital elements in any policy analysis. They suggest that varying the student mix may be an essential part of a performance improvement plan. The soundness of these key conclusions is attested to by two lines of supporting evidence. First, the U.S. Commission on Civil Rights' report, *Racial Isolation in the Public Schools,* includes an extensive reanalysis of Coleman Report data. Using more detailed contingency analyses on Coleman's metropolitan Northeast subsample, the Commission confirmed those findings of Coleman's which had originally been based on a regression analysis of the entire national sample.

Second, the central findings are substantiated by at least four detailed, though less extensive, educational studies that employed methods and samples different from those of Coleman's survey. Three of these studies antedated Coleman's emphasis upon school social class. In a study published in 1959, Alan B. Wilson demonstrates the special significance of the school social class factor in determining student college aspirations in eight high schools in the San Francisco Bay Area of California.[10] He found higher percentages of college aspirants in higher status schools, even after controlling for other determinants of college aspirations, father's occupation and education, mother's education, median academic grade, and intelligence test score. For example, among those boys whose fathers and mothers were high school graduates and whose fathers held manual occupations, 60 percent in upper status schools wanted to go to college. This compares with 54 percent in the medium status schools and only 32 percent in the working status schools. Likewise, among those boys with a modest "C" academic grade record, 72 percent from upper status schools aspired to college. In contrast, only 55 percent from medium status schools and 41 percent in working status schools held such an aspiration. Finally, for those in the 100 to 119 IQ test range, for instance, 93 percent in the upper status schools, 72 per cent in the medium status schools, and 51 percent in the working status schools aimed for college.

A second early study on the problem was mounted by a research team at Harvard University. This study differed somewhat, however, in that it substituted social class level of the school's community for a direct measure of social class levels of the schools' students.[11] Controlling for father's occupation, boys from higher status communities were found to be more likely to go to college. In addition, community status, which determined the status level of the schools, had its crucial impact only at the high school level, the level Wilson studied. Consequently, community status predicted neither performance in primary school grades nor entrance into the college preparatory courses in high school from junior high school. This finding parallels the Coleman result that school social class gained in predictive value in the secondary school grades.

The most definitive early study was conducted by John Michael.[12] He analyzed the aptitude test scores and career and college plans of 35,436 seniors in a nationally representative sample of 518 American public high schools. Together with the student's scores on a scholastic aptitude test, not unlike that used by Coleman, Michael classified students on an index of family social class using such information as the father's occupation and education and whether or not older siblings had attended college. Further, he classified high schools into five status ranks according to percentage of seniors in each school who fell into his two top family status classifications, a method similar to the school social class measure of Coleman.

The first finding revealed that, with family status controlled, the higher the status of the school, the higher the average score on the scholastic aptitude test. Further analysis revealed that variation in percentages of students scoring above the national average on the test was evenly attributable to the individual and school social class indices. However, the variation in percentages scoring in the top quarter was considerably more related to individual social class than school social class. This is a result directly in keeping with Coleman's finding that school social class is most important for the more deprived students. It is also consistent with the Civil Rights Commission's finding that, among whites in the metropolitan Northeast, school social class was least important for the highest status students.[13]

Turning to student plans to attend college, Michael, as with Wilson and the Harvard investigations, demonstrated that school social class makes a difference. Michael's analysis revealed that these effects are strongest for students from lower individual class backgrounds. Consider first those seniors from lower class backgrounds who score in the top quarter of the aptitude test distribution. Among these talented youngsters, only 44 percent who attended the lowest status high schools planned to go to college compared with 57 percent who attended the highest status high schools. By contrast, among the talented seniors from the highest individual social class group, 80 percent who attended the lowest status high schools planned to go to college compared with 86 percent who attended the highest status high schools. In other words, a high status school exerts a far greater influence on college plans among talented lower status than talented higher status children.

Much the same phenomenon is true for Michael's entire sample. The percentage difference in college plans between individual social class groups is essentially the same at each type of school; but the percentage differences in college plans between scholastic aptitude test levels is far higher in the high status than the low status high schools. Put simply, attendance at a low status school does not deter seniors from upper status families in planning for college, but attendance at a high status school is an important aid to able seniors from lower status families.

All three of these earlier studies, then, demonstrate the significant consequences of attending high schools of varying social class compositions. Yet, as James Coleman himself states,[14] these initial studies did not differentiate between the effects of school social class per se on pupil performance, or the effects of some variable or combination of variables which are strongly related to school

social class (for example, school facilities), which Michael demonstrated did co-vary with school social class. It remained, then, for Coleman himself to answer his own query; for the Coleman Report was able to provide the relevant controls and demonstrate that these effects were indeed associated with school social class per se even after other relevant types of factors are separated out.

In addition, these three earlier investigations suffer from the interrelated methodological weaknesses which limit the Coleman survey. The results are neither longitudinal nor corrected for initial pupil achievement and aspirations upon entering school in the primary grades. In other words, the studies (1) measured pupil improvement by comparing the test scores of lower grade students against the concurrent scores of other upper grade students in the same school (to see the amount or rate of pupil improvement) rather than testing the same pupil twice, several years apart, to see *his own* amount or rate of change. And (2) these studies did not permit testers to measure whether or not the pupils studied had different levels of skills and aspirations when they began school, which might have come from the efforts of upper status families to place their children in more effective schools. These weaknesses open the studies to the possibility that their findings result from special selection biases.

A number of Coleman Report critics have challenged the social class climate finding on precisely these grounds. They apparently choose to ignore the Civil Rights Commission's study replicating the Coleman result.[15] Wilson, in a follow-up to his earlier research, studied the school social class variable with a probability sample of junior and senior high school children in Richmond, California. He had the advantage of both longitudinal data and initial test scores upon entering school, thus overcoming the critics' objection. Wilson found that the social class context of the elementary school had a strong effect upon subsequent academic success at high grade levels, even after "allowing for individual differences in personal background, neighborhood context, and mental maturity at the time of school entry."[16] Thus, three earlier investigations and a later, well-controlled study by Wilson, closely agree with the major conclusions of the Coleman Report concerning the preeminent importance of a school's social class climate.

To sum up, the Coleman study is a broad-gauged survey of what exists now in American public schools. It could neither detail precisely how children learn nor test what American public schools could become in the future. The Coleman Report outlined the gross facts of American education today; the precision of the specific experiment is now needed to detail the processes that go unseen by the survey.

Some Research Policy Implications. Hopefully, the direction of future educational research will be strongly influenced by this study. The Coleman Report sets the context within which more limited data must be interpreted; and it provides a rich variety of exciting leads with obvious policy implications. In order to minimize the operation of individual social class factors, for example, would boarding schools be an effective intervention for especially deprived youngsters in the early grades? Are there any truly effective public schools which are overwhelmingly attended by lower status children? If there are, by what means do such schools overcome the typically powerful effect of school social class? In other words, what works? If such schools do not exist, what methods not currently being tried might enable such schools to effect such pupils? What precisely is the process underlying the linkage between a Negro child's sense of environmental control and his achievement scores? How might this sense of control of the environment be imparted to the school? These and scores of other questions spring to mind from a careful consideration of the Coleman Report. Systematic funding, both public and private, of pertinent research is needed in order to make possible an attack upon these vital questions.

*Is there a racial composition apart from social class effects?*

Once we recognize the importance of the student social class mix on individual achievement performance, a question arises as to whether or not the effect on achievement of mixing races (desegregation) is attributable more to changing social class mix than to changing racial mix. In other words, what is the most appropriate explanation for the achievement benefits we often find associated with interracial schooling—the change in social class, when lower socioeconomic status Negro students mix with higher socioeconomic status whites, or simply the interracial mix itself, even where status of both groups of pupils is constant?

A discussion of this somewhat complex issue can deliver two important benefits: (1) to illustrate in depth the operation of many of the special problems that plague race and education research; (2) to help us better understand how desegregation affects both Negro and white children. Is its impact perhaps due entirely to the changing of the social class composition of schools via desegregation or to the concurrent change in the racial mix? This understanding of how desegregation achieves its effects is not critical for determining whether or not we want to improve Negro achievement via desegregated schools or merely through interclass schools. The relative "shortage" of middle class Negro families means that interclass schools can only be created by racial desegregation. However, such understanding will affect the kind of policies we explore and adopt to increase Negro achievement in desegregated schools. If the improvement from desegregation is actually a school social class effect, that limits our search for better policies to factors that should not be unique to interracial schools. If, however, improvement is also due to desegregation itself, regardless of social class, then our net must be cast more broadly in order to include racial considerations.

The Coleman Report provides only spotty and somewhat conflicting evidence on this focal issue; however, the Civil Rights Commission directed much of its Coleman data reanalysis to this relatively neglected question. Employing parents' education as the chief social class indicator, the Commission's study attempted to control for both individual and school social class while testing the relationship between racial composition of the classroom and Negro verbal achievement. This reanalysis uncovered relatively large and consistent achievement differences in favor of those twelfth grade Negro students in the metropolitan Northeast who came from "more than half" white classrooms.[17] For instance, among lower status Negro children in lower status high schools, those from "more than half" white classrooms scored at the eight-and-a half grade level compared to only a seventh grade level for those from "all-Negro" classrooms. At the other end of the scale, among higher status Negro pupils in high status schools, those from "more than half" white classrooms scored at the ten-and-a-half grade level in contrast to the ninth grade level of those from "all-Negro" classrooms.

In other words, these Commission findings, on the whole, maintain that the racial composition of the classroom is an important achievement factor. The Commission also recognized that other factors which typically co-vary with racial composition, such as school social class, are even more crucial for achievement than desegregation. However, for the moment, let us try to see how desegregation produces its beneficial effects. A number of explanations can be offered.

*Do Predominately White Schools Have Better Staffs, More Dollars?* It could be maintained that, even in the metropolitan Northeast, predominantly Negro and predominantly white schools vary sharply in school quality, especially teacher quality, and that these distinctions are responsible for the improved scores in predominantly white institutions. This explanation could be challenged by the failure of the Coleman study to uncover sharp quality differences between "Negro" and "white" schools, for example, level of expenditures, amount of teacher training in the metropolitan Northeast; but the Coleman finding can itself be seriously questioned.[18] In any event, controlling the analysis for school quality narrows slightly the performance differentials attributable to desegregation, but does not by any means exhaust them.[19]

*Do More Able Negroes Get Into Predominantly White Schools?* A second type of explanation involves sample selection biases, which are a typical difficulty bedetting research in this area. One special form of biased selection explanation involves ability grouping, or "tracking." It can be argued that all the Commission found was that schools in the metropolitan Northeast do a reliable and accurate job of placing Negro students in "tracks." Given the social handicaps many Negro children bring to school, goes the explanation, only the very brightest do well; these gifted Negro children, who are apt students, eventually are assigned to high ability groups where most of their classmates are white. But less exceptional Negro students are assigned to low or medium ability groups where many or most of their classmates are other Negroes. Consequently, those Negroes with mostly white classmates score highest on academic achievement tests simply because only brighter Negroes are put into desegregated classes.

Another selection bias explanation concerns parental choice of community and school. One might maintain that, *within a given social class group*, more ambitious Negro parents will somehow manage to live in communities with interracial schools. Thus, what appears to be an advantage wrought by interracial schools is actually a result of the self-selection of highly motivated children of educationally minded Negro parents. A third possible selection bias explanation asserts that the likelihood is great that there are relatively more dropouts of poorly achieving Negro students from predominantly white schools. This is not viable here, because the Commission results can be replicated for the ninth grade which is before the vast majority of present-day dropouts take place.

These explanations suggest that the benefits of desegregation are really due to the types of Negroes that achieve desegregated environments, rather than to desegregation itself. The explanations based on selection bias receive some limited empirical support from the Wilson research conducted for the Commission and mentioned earlier.[20] He found that ". . . Negro students who attended integrated schools had higher mental maturity test scores in their primary grades, and came from homes better provided with educative materials."[21] Thus, when Wilson held constant the early elementary achievement of these students, he found that the school class effect remained, but that "the racial composition of schools, while tending to favor Negro students in integrated schools, does not have a substantial effect."[22]

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Wilson's conclusion is limited, however, in a number of ways. For instance, among these 128 desegregated eighth graders, only eight of them (6 percent) were in lower status schools; but among the 777 segregated eighth graders, 378 of them (49 percent) were in lower status schools. In other words, there is not enough variance in school social class among desegregated eighth graders for Wilson's statistical procedures to separate school social class and racial composition factors convincingly.

Since the Wilson study leaves open the question about the effects of desegregation upon the more disadvantaged Negro students, the Commission analyzed Coleman data to check the effects of interracial classrooms on the verbal scores of less gifted Negro ninth graders in the metropolitan Northeast.[23] These students had poorly educated parents and reported themselves to be in low or medium ability tracks. Both in high and low status high schools, these Negroes from predominantly white classrooms performed on the average from one-half to two-thirds of a grade better than comparable Negroes from predominantly Negro classrooms.

The selection bias that might arise from ability grouping implies that tracking may cause predominantly white *classrooms* to be associated with higher Negro scores; but it does not affect the finding that multiple tracked, predominantly white *schools* tend to relate to higher Negro performance, even in lower track classrooms. More importantly, the ability grouping does not typically begin in American public schools until the middle school grades and does not become nearly universal until the high school grades. Therefore, desegregation would appear to afford a better explanation for who gets into the high ability tracks than ability tracks do for desegregation effects. A Negro child of medium ability who begins his education in a desegregated school, for instance, has a far higher probability of being selected later for a high ability track than a Negro child of comparable ability going to a school of similar social status who began his education in an all-Negro school. Ability grouping, then, can serve as a magnifier of the differences already created by classroom differences in racial composition, a catalyst adding to the cumulative deficits of the segregated Negro.

The parental choice of community and school explanation is in some ways the reverse of the ability grouping explanation. It accounts for the fact that predominantly white *communities and schools* are associated with higher Negro achievement by suggesting that more effective Negro families move into such environments. However, it cannot account fully for the fact that the Commission found interracial *classrooms* also associated with higher Negro achievement, unless one is willing to assume that there is widespread selection by Negro parents of classrooms as well as communities and schools. There are other assumptions, too, that this particular line of reasoning must make, assumptions that are, at best, dubious. Since lower status, low ability Negro pupils also benefit from desegregation, these contentions require that poor Negro families possess a sophisticated knowledge of where to go to find the better interracial schools and the funds and freedom of mobility to move accordingly. All that is known about the extreme residential discrimination practiced against Negroes, especially poor Negroes, in American metropolitan areas today makes such assumptions most improbable.

*Is the Improvement Really Due to School Social Effects?* Two additional explanations argue that at least some of the apparent desegregation effects revealed by the Commission's reanalysis still reflect the operation of the powerful school social class effect. One chain of reasoning is based on the difficulty of controlling for social class across racial groups. This is so because the floor of Negro deprivation is below that of whites. For example, it can be maintained that "lower class" Negroes who attend a predominantly white school comprised largely of "lower class" whites are still benefiting from a higher social class student climate, than "lower class" Negroes who attend a predominantly Negro school comprised of "lower class" Negroes. While there is some merit in this reasoning, it should be remembered that the Commission's differences for twelfth graders by racial composition of classrooms (averaging about one and one-third grades, holding constant the social class variables of the Negroes and whites) were approximately 80 percent as large as those attributable to school social class directly (averaging about one and two-thirds grades holding the individual social class and racial composition variables constant).[24] Hence, it would seem that the small school class residual under discussion, that is, the difference between lower status Negroes and lower status whites, could account for only a small portion of the effects attributed to racial composition. Besides, the two factors, school social class and racial composition, prove most important as explanations at different grade levels. The racial composition of classrooms is most powerful for the achievement scores of children in the beginning grades, while school social class is most powerful in the high school grades.

The other social class explanation is limited but, perhaps, more subtle. It applies only to certain lower status Negro students who attend predominantly white, lower status schools. The majority of Negroes in such schools may well come from middle class Negro families. Even if the lower status Negro child is of fully equivalent status to his lower status white co-pupil, the main stimulant for his improved achievement may be his membership in a student minority comprised largely of middle class Negroes. This possibility is not as remote as it may sound; a larger percentage of middle class than lower class Negroes attend predominantly white schools, and the explanation only assumes that the middle class Negro minority in such schools will serve as a more positive reference group to lower class Negroes than the white majority. Though of limited scope, this explanation elegantly illustrates the subtleties and difficulties inherent in this type of research.

*How could Segregation Hurt Negroes?* Still, none of those counter explanations, taken singly or together, eliminates the relatively large relationship found by the Commission between classroom racial composition and Negro achievement. If it is solely the effect of other co-varying factors, what could be the reasons for this assoication? How does segregation "hurt" Negro students? The process is undoubtedly complex, but a number of empirical clues are suggestive. For example, Coleman found that Negroes in interracial schools are somewhat more likely to feel they can control the environment, the attitude that proved such an important predictor of Negro scores. The Civil Rights Commission noted that (1) predominantly Negro schools often become stigmatized in the community as "bad schools" by Negroes and whites alike, even when at least the physical facilities are the equal of supposedly "good schools" for whites; and that (2) there are effective and ineffective interracial schools, and the differences between them point to the importance of interracial acceptance for high achievement and aspirations. A number of these considerations will be discussed in detail later in this chapter.

A practical educator might well wonder about the policy implications of this extended discussion about a racial composition effect on achievement separate from social class. For instance, does not the relatively small size of the Negro middle class make desegregation an educational imperative even if *all* of the benefits of interracial schooling for Negroes are a direct result of the school social class factor alone? For most practical purposes, the answer to this query is *yes*. There are, however, cases of predominantly Negro, high status schools with empty seats. Can one except the same benefit for a lower status Negro child from attendance at such a school as he would receive from a predominantly white school of comparable status? The Commission report suggests that the child would receive much, *though not all* of the benefits of racial desegregation.

While the foregoing discussion does not conclusively demonstrate the value of interracial (as opposed to intersocial class) schools, I believe that it does tentatively point to the operation of *both* social class and racial composition factors on Negro achievement. Since school operating decisions are being made every day which affect both these variables and will determine the quality of the education of the children concerned, it is incumbent on decision makers to take these factors into account. My tentative belief is further bolstered by the additional evidence presented in the following sections.

SIGNIFICANT DEFINITIONAL DISTINCTIONS CAN BE MADE BETWEEN "SEGREGATION," "DESEGREGATION," AND "INTEGRATION"

Coleman Report findings and Civil Rights Commission results suggest some empirically based definitional distinctions that might prove helpful in this semantically confused realm. To begin with, the legal distinctions between *de jure* and *de facto* segregation are of no practical importance for the consequences of racial isolation in the schools. The Commission's data speak to this issue directly; they suggest effects of de facto school segregation just as negative as those reported earlier for de jure school segregation. The legal distinction has little relevance for the Negro child in the all-Negro school.

Indeed, a realistic look at so-called de facto school segregation in cities today calls into question even the legal separation of the two forms of segregation. While de jure segregation has its roots in blatant state legislation, so-called "de facto" segregation generally has its roots in state action, too. Such state action may include anything from school board decisions to urban renewal plans and zoning ordinances. At some future time in American history, as Paul Freund has suggested, the judiciary will have to come to terms more clearly with the implications of the state action similarity of both de jure and de facto forms of school segregation.

Coleman Report and Commission data also have implications for the question of numbers and percentages which constitute "segregation" or "desegregation." This matter is of considerable importance, since the definition adopted will provide a conceptual framework for persons interested in advancing desegregation, the definition will describe the target towards which their policy should strive, and it will measure their success or failure. Two major alternative definitions have been proposed. One defines segregation and desegregation by pegging the definition to the nonwhite percentage of the area's overall school population. Thus, if 12 percent of a system's students are nonwhite, then ideally each desegregated school in the system would approach a nonwhite student composition of 12 percent. There are at least two possible criticisms of this approach. First, it is often impractical in all but reasonably small areas, and, second, it treats the individual school as a simple reflection of the community, rather than as an integral institution with its own dynamics and requirements.

A second definition attempted to meet these criticisms with a relatively fixed, rather than variable, gauge: on the basis of several social psychological considerations, the

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ideally desegregated school is one whose student body includes from roughly 20 to 40 percent nonwhites. The disadvantage here is that segregated schools could still result in systems with fewer than 20 or more than 40 percent nonwhite children.

The two federal studies suggest a more simple set of definitions. A segregated school is one whose student body is predominantly nonwhite; while a desegregated school is one whose student body is interracial, but predominantly white. Such definitions stem from the basic finding that the beneficial effects of interracial schools for the academic performance of Negro children are not linear; that is, Negro test scores do not rise evenly with increasing percentages of white children in the classroom. Rather, both analyses point to an achievement discontinuity which occurs past the midpoint, with the highest Negro verbal test scores reported from "more than half" white classrooms.[25] Indeed, enrollment in classes with "less than half" whites is associated with scores not significantly different from those of all-Negro classrooms.

This more simple definition receives further support from white test performance in interracial schools. As long as the class is predominantly white, white pupils' achievement levels in interracial classrooms do not differ significantly from those of white pupils in white classrooms.[26] But attendance in predominantly Negro classes is associated with lower white test scores. In other words, the same types of classes relate to higher scores for both Negro and white children; and these classrooms are predominantly white and may usefully be defined as "desegregated." Similarly, the same classes relate to lower scores for both Negro and white children; and these classrooms are predominantly Negro and may usefully be defined as "segregated."

*Implications of the definitions*

The ideological difficulties of such definitions are apparent. As mentioned before, Negroes can rightfully argue that such definitions indicate that "white is right," that predominantly Negro schools cannot be "good schools." Commissioner Frankie Freeman of the Civil Rights Commission addressed herself specifically to this issue:

The question is not whether in theory or in the abstract Negro schools can be as good as white schools. In a society free from prejudice in which Negroes were full and equal participants, the answer would clearly be "yes." But we are forced, rather, to ask the harder question, whether in our present society, where Negroes are a minority which has been discriminated against, Negro children can prepare themselves to participate effectively in society if they grow up and go to school in isolation from the majority group. We must also ask whether we can cure the disease of prejudice and prepare all children for life in a multiracial world if white children grow up and go to school in isolation from Negroes." [27]

The two federal reports also suggest that another useful distinction can and should be made between "desegregated," as opposed to "integrated" schools. Note that the definition of desegregation involved only a specification of the racial mix of students, namely, more than half whites. It does not include any description of the *quality* of the interracial contact. As we will see, merely desegregated schools can be either effective or ineffective; they can promote either genuine interracial acceptance or intense interracial hostility. In short, desegregation of a school can be but part of the process of improving pupil performance.

Recall that the Coleman Report revealed consistently larger standard deviations for the test scores of Negro children in desegregated (that is, "more than half" white) classrooms.[28] In other words, while the average scores of such Negro children were higher than those in segregated schools, an unusually large proportion of these children were achieving much higher than that average, and a similar proportion were far below (and perhaps might be better off in a "segregated" school). What accounts for these wide differences? The Commission's reanalysis of these Coleman data suggests that the explanatory intervening variable is *interracial acceptance* within the school. In desegregated schools where most teachers report no tension, Negro students evince higher verbal achievement, more definite college plans, and more positive attitudes than students in tense desegregated schools.[29] White students also evince benefits from the interracially harmonious school.

The term "integrated school," then, might usefully be reserved for the desegregated school where interracial acceptance is the norm. With these usages, "desegregation" becomes a prereqiusite, but "integration" is an ultimate goal.

*What are optimal environments for racial "integration"?*

The special efficacy of the desegregated school with interracial acceptance and low levels of tension is completely consistent with the growing body of experimental evidence on racial optimal performance environments. The basic work in this realm has been conducted by Irwin Katz.[30]

Katz first studied biracial task groups consisting of two Negro and two white students. In a variety of conditions, Negro subjects "displayed marked social inhibition and subordination to white partners." Negroes made fewer remarks than whites, tended to accept white contributions uncritically, ranked whites higher on intellectual performance even after equal racial ability has been displayed, and later expressed less satisfaction with the group experience than did whites. These complaint tendencies were modified only after a situation was presented which required Negro subjects openly to announce correct problem solutions to their white partners. That this procedure did work suggests the general technique for the interracial classroom of making sure that the Negro members have a public opportunity to display personal competence.

Katz also demonstrated performance effects of the biracial context on his white subjects. Accustomed to all-white situations, white subjects often failed to utilize the abilities of their Negro partners, even when they could expect a monetary bonus from the experimenter for good teamwork.

A second series of experiments by Katz reveals further effects of racial isolation by introducing threat into different racial environments. Thus, students at a predominantly Negro college in the South performed better on a digit-symbol substitution task under conditions of low stress when tested by a white stranger than under conditions of high stress when tested by a Negro stranger. Likewise, Negro students in another experiment scored higher on a digit-symbol code with a white tester, as long as they believed the code to be a research instrument for studying hand-eye coordination, a nonintellectual capacity. However, they did better with a Negro tester when they thought the code was an intelligence measure.

Katz has also isolated some effects on Negro Americans of anticipated comparisons with white Americans. Students at a Negro college in the South worked on easy and difficult versions of a digit-symbol task under three different instructions. One set of instructions described the task as not being a test at all, another set described it as a scholastic aptitude test with norms from the Negro college itself, and a third set described it as a scholastic aptitude test with national (that is, predominantly white) college norms. The Negro subjects performed best when they anticipated comparison with other Negroes, less well when they anticipated comparison with whites, and least well when no comparison at all was anticipated.

Another study again varied the anticipated comparison with whites or other Negroes, but at the same time varied conditions of white or Negro experimenter and different probabilities of success. The results of this experiment are consistent with those just cited. The Negro subjects performed best when tested by a white with a reasonable expection (that is, 60 percent) of success and anticipation of comparison with Negro norms. They performed worst when tested by a white with a low expectation (that is, 10 percent) of success and anticipation of comparison with white norms.

Katz believes these findings are consistent with a four-factor model of Negro American performance in biracial situations. On the negative side of the ledger, he lists:

1. *Lowered probability of success.* Where there is marked discrepancy in the educational standards of Negro and white schools, or where Negro children have already acquired strong feelings of inferiority, they are likely to have a *low expectancy of academic success* when introduced into interracial classes. This expectancy is often realistic, considering the situation, but it has the effect of lowering achievement motivation. The practical implication of this factor is to avoid its operation by beginning interracial instruction in the earliest grades, an implication consistent with the Civil Rights Commission's finding that desegregation in the earliest grades generally has the most positive effect on the achievement of Negro children.

2. *Social threat* is involved in any biracial situation for Negro Americans; because of the prestige and dominance of whites in American society, rejection of Negro students by white classmates and teachers often elicits emotional responses that are detrimental to intellectual functioning. This Katz finding, too, is consistent with the Commission finding that Negro academic achievement is highest in integrated schools featuring cross-racial acceptance.

3. *Failure threat* arises when academic failure means extraordinary disapproval by significant people, parents, teachers, or peers at school. Low expectancy of success under failure threat may also elicit emotional responses detrimental to performance. But this need not always be the case. Sometimes, experiences in the interracial classroom act to dispel feelings of failure threat and group inferiority. When one of the nine Negro children, who, under the glare of world publicity, desegregated Central High School of Little Rock, Arkansas, in 1957, was asked what she had learned from her arduous experience, she exclaimed: "Now I know that there are some stupid white kids, too!" This insight into the white superiority myth could never have been acquired in an all-Negro high school.

Finally, on the positive side of the ledger, Katz notes that acceptance of Negroes by white classmates and teachers often has a *social facilitation* effect upon their ability to learn, apparently because it reassures Negro children that they are expected to be fully as talented in the classroom as anyone else. This anticipation, that skillful performance will win white approval rather than rejection for not "knowing your place," endows scholastic success with *high incentive* value. Katz believes this factor explains why his Negro subjects tend to perform better with white investigators on tasks which are free of severe threat.

A more recent Katz experiment adds another dimension. Heretofore, he had employed primarily Negro college students for his subjects. But when he now uses as subjects truly isolated, grade school Negro boys

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from a New York City slum, the social facilitation factor previously evident with white testers disappears. In a verbal learning task, performance was superior with the Negro experimenter under all conditions of the study including the use of approval. This result suggests the original Katz model must be placed in a larger context of the past racial experience of the Negro subjects. It also emphasizes the need for early interracial experience.

Research such as Katz' offers educators both an opportunity and a challenge. His data suggest factors which might be found in an effectively integrated school and imply principles that should govern the planning and management of such schools. At the same time, they imply that effective integration is far more than the mixing of races, and that, in itself, is a difficult issue.

FOOTNOTES

[1] James S. Coleman, *et al., Equality of Educational Opportunity* (Washington, D.C.: U.S. Government Printing Office, 1966), pp. 3–7.

[2] Coleman, *et al., Equality of Educational Opportunity*, p. 300. Replicated by Alan B. Wilson in his work in Richmond, California; see U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools*, Vol. II (Washington, D.C.: U.S. Government Printing Office, 1967), pp. 172–74.

[3] Coleman, *et al., Equality of Educational Opportunity*, p. 300.

[4] *Ibid.*, p. 85.

[5] *Ibid.*, pp. 316–17.

[6] *Ibid.*, pp. 312–13.

[7] *Ibid.*, pp. 312–16.

[8] *Ibid.*, pp. 319–25.

[9] *Ibid.*, p. 321.

[10] Alan B. Wilson, "Residential Segregation of Social Classes and Aspirations of High School Boys," *American Sociological Review*, Vol. 24 (1959), 836–45.

[11] S. Cleveland, "A Tardy Look at Stouffer's Findings in the Harvard Mobility Project," *Public Opinion Quarterly*, Vol. 26 (1962), 453–54.

[12] J. A. Michael, "High School Climates and Plans for Entering College," *Public Opinion Quarterly*, Vol. 25 (1961), 585–95.

[13] U.S. Commission on Civil Rights, Vol. 1, 85.

[14] James S. Coleman, "Comment on Three 'Climate of Opinion' Studies," *Public Opinion Quarterly*, Vol. 25 (1961), 607–10.

[15] Alan B. Wilson, "Educational Consequences of Segregation in a California Community," in U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools*, Vol. II, 165–206.

[16] *Ibid.*, p. 202.

[17] U.S. Commission on Civil Rights, Vol. I, 90.

[18] *Ibid.*, p. 94.

[19] *Ibid.*, pp. 98–100.

[20] *Ibid.*, pp. 100–101.

[21] *Ibid.*, p. 100.

[22] *Ibid.*, p. 101.

[23] *Ibid.*, p. 101.

[24] *Ibid.*, p. 90.

[25] *Ibid.*, p. 90; and Coleman, *et al., Equality of Educational Opportunity*, p. 332.

[26] U.S. Commission on Civil Rights, Vol. I, 160.

[27] *Ibid.*, p. 214.

[28] Coleman, *et al., Equality of Educational Opportunity*, p. 333.

[29] U.S. Commission on Civil Rights, Vol. I, 157–58.

[30] J. Katz, "Review of Evidence Relating to Effects of Desegregation on the Performance of Negroes," *American Psychologist*, Vol. 19 (1964), 381–99.

Mr. MONDALE. Mr. President, there is no question that minority group and disadvantaged children are severely damaged by segregated education. But they are only its most obvious victims.

In his testimony before the select committee, Dr. Kenneth Clark stated that advantaged, white, middle-class children are also damaged by educational systems which fail to practice the principles of racial justice and equality of opportunity that they teach.

Finally, on another level, all of us and all our children—black, white, and brown, rich and poor—suffer as each passing year brings us closer to the tragic, divided America foreseen in the report of the President's National Advisory Commission on Civil Disorders.

ESSENTIAL ELEMENTS OF INTEGRATED EDUCATION

Merely to state the case that integration results in educational benefits is not enough. We must look beyond the mere placement of children from diversified backgrounds in schools together. We must also define the essential elements of quality integrated education—the elements that provide the kind of sensitive, humane, child-oriented schools that can make integrated schools models of educational excellence. The hearings and studies conducted by the Subcommittee on Education and the Select Committee on Equal Educational Opportunity have led me to conclude that there are four elements which are essential to the success of integrated education.

First, is the participation of parents, teachers, students, and other members of the community in the educational process. These groups must be involved in planning, and in the development and implementation of programs and projects. School integration by definition involves human relations. The involvement of all affected community groups will not only prevent misunderstandings based upon misinformation, but will also assure that programs address the needs of children as these needs are seen by educators and their clients working in cooperation.

Second, is the presence of socio-economic, as well as racial and ethnic diversity. As the President stated in his message on elementary and secondary school desegregation of March 24, 1970, children benefit most from integrated environments when students are from a variety of socio-economic, as well as racial and ethnic backgrounds. There are four essential components of this diversity. First, the school must be substantially representative of all the minority and nonminority groups, which comprise the student population of the school district. In other words, token efforts will not succeed. Second, all these groups must participate in curricular and extracurricular activities on an equal basis. Third, the faculty must also be representative. Fourth, a substantial proportion, if not a majority of the children in an integrated school must be from educationally advantaged backgrounds.

The third essential element for the success of integration is the presence of a learning environment which is sensitive to the needs of all children involved—an environment which can be created only by teachers and administrators who believe that all children can learn. Where minority group children from backgrounds in which a language other than English is spoken are present, sensitive bilingual and bicultural programs are crucial. Mexican-American, Indian, Puerto Rican, oriental, and other children with differing languages and cultures must be allowed to learn and respect the language and culture associated with the group to which they belong. All children will benefit from an opportunity to learn about the cultural heritages which these children possess.

The fourth element is the need to begin to process by placing children from diverse backgrounds in school together in their early years. The most successful integration efforts are those which begin in the earlier grades. That is where children learn most from each other. It is where they will most readily develop attitudes which are tolerant and respectful of each other.

If these elements are present, if there exists in the community the will and the leadership necessary to make such efforts successful, the kinds of stable, quality, integrated schools which I have described can and will become models of educational excellence, sensitive to the background, culture, abilities, and individual needs of every student.

INTEGRATION IS FEASIBLE IN ALL BUT A FEW DISTRICTS

I am not unaware of the difficulties involved in persuading communities across the Nation that integrated education is best for all children. In many central city and other districts, with student populations that are predominantly disadvantaged or from minority groups, it is just not mathematically possible to establish integrated schools of the kind which I have described. But for the vast majority of school districts with minority group children across the country, there is no technical reason—no mechanical excuse—why integrated schools cannot be established throughout each district.

It is easy to cite the Harlems and Districts of Columbia of this country and throw up one's hands in despair. But let us look at the facts. Most minority students are in districts in which nonminority students are in the majority. There are 11,750 school districts in the United States with 300 or more children. Of these, only 693 or 5.9 percent have a majority of minority group students. We usually think of big cities as being impossible to integrate. Of the 100 largest school districts in the Nation, contain about one-fourth of all students, 16 are majority black, one is majority Mexican-American, and one is majority black and Mexican-American. Take standard metropolitan statistical areas, cities of 50,000 or more population and their suburbs. There are 217 such cities of which 42 contain a majority of minority group students. So that 82 of the 100 largest school districts and 175 of the 217 cities of 50,000 or more should have no problem meeting the formula for the establishment of integrated schools prescribed in this bill.

INTERDISTRICT AND METROPOLITAN AREA PROGRAMS

For those school districts which are so severely impacted with minority and dis-

advantaged students that integration is just not practical within the district this bill provides alternate solutions: Metropolitan area and interdistrict programs.

The bill reserves 15 percent of appropriated funds for metropolitan area programs. The focus of this particular section is a result of the leadership of the Senator from Connecticut. As Prof. Thomas Pettigrew of Harvard University testified before the Select Committee:

A metropolitan perspective is essential. Pessimists often regard the racial integration of schools as impossible because of the growing concentration of black Americans in central cities.

But as soon as we adopt a metropolitan perspective the dimensions of the problem are abruptly altered. Black Americans constitute only 11% of our national population and only about 14% of our metropolitan population.

A metropolitan approach does not require consolidation of political subdivisions or school districts. It does require new levels of cooperation between central cities and their suburbs. Present Federal aid to education programs, if anything, discourages such cooperation by focusing only upon distributing funds to single isolated school districts.

Federal funding that provides strong incentives for cooperation between school districts can be an important step toward both equal educational opportunity and the more efficient use of Federal funds. Beyond this, it is obvious that integrated schools within metropolitan areas must draw students from both central city districts and suburban districts.

Mr. President, in this regard I ask unanimous consent to have printed in the RECORD from the same article referred to earlier by Dr. Pettigrew some very cogent and compelling arguments that justify the establishment of a metropolitan educational system as part of a metropolitan program.

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

A RETURN TO THE COMMON SCHOOL—EXCERPTS

* * * * *

METROPOLITAN PARKS

Several designs would meet these criteria; but let us consider one as illustrative: *the metropolitan park plan*. Each park would be located on "neutral turf" in an inner-ring suburb or just inside the central city boundary.[33] It would be so placed that the same spoke of the mass transit system could bring both outer-ring suburban children into the park and ideally comprise a pie-shaped metropolitan wedge containing a minimum of 12,000 to 15,000 public school students. The thin end of the wedge would be in the more dense central city, and the thick end in the more sparsely settled suburbs.

But what incentive could generate the metropolitan cooperation necessary for such a plan? A number of systems have considered educational parks, but they usually find the capital costs prohibitive. Moreover, many systems are currently hard pressed for expansion funds, especially as referenda for school construction bonds continue to be defeated throughout the nation. Federal funding, then, on a massive scale will obviously be needed, though it must be dispersed in a far more careful and strategic manner than the everybody-gets-his cut, "river and harbors bill" principle of the 1965 Elementary and Secondary Education Act.

If federal funding for capital costs is available without acceptance of metropolitanism, many school systems, particularly those exhibiting bad faith, will not choose to join a park plan. Therefore, federal construction grants must: (1) involve more than one urban district, and the consortium must always include the central city (note that any one park would not require the entire metropolitan area to join the proposal though some coordination would be necessary, perhaps through review by each area's metropolitan planning commission); (2) require racial and social desegregation—and, hopefully, integration—in every school involved (metropolitan involvement makes this requirement feasible); and (3) exclude alternate routes for federal building funds (though if the first two criteria are met, the proposal need not adopt the metropolitan park plan as the model).

A 15,000 student, $40 to $50 million park, 90 percent of it paid by the federal government, would be a powerful inducement. Here lie both a great opportunity and an equally great danger. If the money is distributed in the easy fashion of the Elementary and Secondary Education Act to individual school districts, the antimetropolitan effects could be disastrous for both race relations and public education. Building money spent in such a manner would further insulate aloof suburbia and institutionalize de facto school segregation in the inner city for at least another half century. School construction money may be made available by the federal government; the vital question is: What will be its form and effects?

The educational park idea is not a panacea; there can be elegantly effective and incredibly ineffective parks. Yet ample federal funding combined with the nation's planning and architectural genius should be able to set a new standard and direction for public schools. This combination has successfully been applied to public facilities ranging from interstate highways to magnificent airports. Now the combination should be applied to the benefit of children.

From high rise structures to multiple unit campuses, educational parks themselves can be planned in a variety of ways. The most widely discussed design would involve a reasonably large tract of land (eighty to one hundred acres as a minimum) containing no fewer than fourteen or fifteen schools, serving grades from kindergarten through high school. One educator has visualized a campus design for 18,000 students consisting of two senior high, four junior high, and eight elementary schools.[34] If the park were to serve an especially densely populated section, it would be best if it did not include the entire grade spectrum so that it could still cover a reasonably expansive and heterogeneous attendance area. In general, however, an education park resembles a public university. Both include a variety of educational programs for a large group of students of varying abilities. And, like public universities in our major cities, some parks could consist of high rise structures and some could develop a more spacious campus atmosphere with numerous buildings. Hopefully, the metropolitan park could usually follow the campus model, since sufficient space would generally be obtainable at suburban-ring locations.[35]

Apart from offering racial remedies, the metropolitan park concept has a number of distinct advantages. First, there are considerable savings that accrue from consolidation; centralized facilities, such as a single kitchen, need not be duplicated in each of the park's units. Savings on capital costs, too, would accrue from simultaneous building of many units at one location. These savings, however, do not necessarily mean that the total construction and operating costs would be less than those for the same student capacity spread out in traditional units. The advantage is that for essentially the same cost metropolitan parks could boast significantly better facilities than traditional schools. Consequently each child would be receiving far more per educational dollar in the metropolitan park.

Improved centralized facilities of a park should maximize innovations and individualized instruction. It is difficult to institute new approaches to learning in old settings. A prime finding of social change research is that new norms are easier to introduce in new institutions. The metropolitan park offers a fresh and exciting setting that should encourage new educational techniques and attract the more innovative members of the teaching profession. In addition, a park presents a rare design opportunity for building innovation into the physical and social structures of the schools. This, of course, includes the latest equipment for aiding the teacher and the student. Centralization enhances this process, for example, by providing efficient concentration of all electronic information storage, retrieval, and console facilities. Yet such centralization of equipment should not be viewed as leading inevitably to a wide assortment of frightening Orwellian devices cluttering the school. Poor planning could lead to this result, but the accent should be on individualized instruction as the unifying and positive theme, a theme far more possible in the park design than in the present model of scattered "little red schoolhouses."

Many innovations made possible by a metropolitan park extent beyond the equipment realm. For instance, the teaching profession today suffers from being one of the most undifferentiated by rank of all professions, a characteristic which discourages a lifelong orientation to the field. While the medical profession has a graded rank order of roles from intern and resident to chief of a service, teachers must either enter administration and become principals or shift to more prestigious schools in order to move up the ladder. By concentrating a large number of teachers in a relatively small area, far more role differentiation becomes possible. Thus, a teacher might progress from an apprentice in a team teaching situation, to a master teacher in a team, to a supervisor of master teachers, and so on. Faculty concentration also allows more intensive, across-school, inservice training and the formation of departments across schools with rankings within departments as in universities (for example, a junior high history department consisting of all history teachers in the four or five junior highs on the campus).

Concentration of students also allows wider course offerings. Specialized classes, from playing the lute to seventeenth-century English literature, become economically possible when the students electing them are gathered from units throughout the park. Moreover, concentration makes possible some remarkable facilities that can be shared by all

[33] Other convenient and racially neutral sites would be appropriate to specialized metropolitan educational parks. Rather than near the central city and suburban boundary sites near the art museum, the science center, the music center, and colleges and universities could possess enough appeal and status to attract suburban children into the central city despite the longer commuting.

[34] G. Brain, "The Educational Park: Some Advantages and Disadvantages," in N. Jacobson, ed., *An Exploration of the Educational Park Concept* (New York: New York Board of Education, 1964), p. 16.

[35] In some of the thickly populated metropolitan areas, especially the older cities of the East, ideal sites are already scarce and rapidly disappearing. Hence, the recommendation below for park site land banks.

of the park's units, for example, an Olympic-size swimming pool and extensive auditorium and theatrical equipment. These special facilities could far surpass what is now available in all but the most affluent districts, become a source of student and community pride, and provide a competitive status advantage over private schools. They also would be used efficiently, rather than the minimal use expensive facilities receive in single site schools.

The metropolitan park offers unusual opportunities for an effective liaison with a local university or college. Nova, the extensive educational park near Fort Lauderdale, Florida, even plans to include college and graduate work right on its campus. But direct contiguity is not necessary to develop a mutually beneficial coordination.

Recall that an important cause of public school segregation in many central cities is the enrollment of large percentages of white children in parochial schools. This fact suggests closer cooperation between public and parochial schools; and the metropolitan educational park could facilitate such cooperation under optimal conditions. Most parochial systems are currently in serious financial condition, and tapping into the park's superior facilities should prove attractive. Roman Catholic educators point out that those items that cost the most—the physical science laboratories, gymnasium, and stadium—tend to be less related to the "moral training" that they believe to be the distinctive feature of their schools. Scattered site schools, public and parochial, make "shared time" and other cooperative arrangements awkward at best. And when parochial students come to take their public school class as a group, such segregation often reaps its usual harvest of intergroup tension and hostility.

A recent idea from Vermont introduces a more promising possibility. At the time of planning a large educational park, parochial school educators could be provided the opportunity of purchasing an adjoining plot of land and constructing a new facility of their own. As long as the land price is consistent with its true value, no constitutional infringements appear to be involved. The new parochial facility need only concentrate on courses directly needed for "moral training." Parochial school pupils would be free as individuals, not as separated groups, to cross the park's grass, not urban streets, and attend physical education, science, and other public school courses when they fit their particular schedules. The Vermont Plan offers construction and operating savings to hard-pressed parochial systems; and it offers a greater race and class student balance to hard-pressed public systems.[36]

Cost efficiency, educational innovations, more individualized instruction, wider course offerings, special facilities, and coordination with universities and parochial schools—all the advantages of the well-designed metropolitan park are features that parents, white and Negro, would welcome in the schools of tomorrow. This is politically critical, for desegregation efforts of the past have seldom had the advantage of being intrinsic parts of a larger package promising across-the-board improvements for *all* children.

### BUT WHAT ABOUT THE OPPOSITION?

In addition to the natural resistance to change, four major objections have been raised to the park concept: (1) executive capital costs; (2) the phasing out of existing schools; (3) the problem of impersonalization in large complexes; and (4) loss of neighborhood interest and involvement in the school. Each is a serious objection and deserves comment.

The park *is* expensive, and major outside funding is necessary. Furthermore, mistakes in design and location could be disastrous. A park is an enormous commitment of resources, and, if poorly conceived, it could stand for years as a major mistake in planning. This is precisely what would happen if parks were operated totally within central city systems, for demographic projections prove the folly of building parks for a single central city system as a desegregation device.[37] It is for this reason that the parks of the future must be *metropolitan* in character.

Present schools were expensive, too, and raise the problem of phasing out existing facilities. For many urban districts this is not a problem; they already have overutilized schools with double shifts and rising enrollments or old schools long past their usefulness. But some urban districts have many new schools and would be hesitant to join a park consortium. The program, however, is a long-term one. Hopefully, in the 1970s, most of the nation's leading metropolitan areas would boast one or more parks; these in turn could serve as models for completing the park rings in the decade. Moreover, elementary and secondary student enrollments will rise rapidly: from 48.4 million in 1964 to a projected 54.9 million in 1974, and to 66 million in the fateful year of 1984.[38] Metropolitan parks, then, could be phased in as older facilities are phased out and as enrollments rise.

Such a process would be ideal nationally, but there will be special problems in localities with "planned de facto school segregation." These are cities, such as Chicago, which in recent years have purposely built new schools in the heart of their Negro ghettos. If racial progress is to be made in these cities, recent structures will have to be converted to new uses, perhaps, to much needed community centers.

The third objection to parks centers upon the impersonalization of organizational bigness, "the Kafka problem." Indeed, much of the park's description, 15,000 students, a staff approaching 1000, the latest electronic equipment, has a frightening Kafka ring; and one can easily imagine how an ill-designed park could justify these fears. However, such a prospect is not inherent in the park plan. Nor is bigness a park problem alone; many of today's huge urban high schools accommodate many thousands of students in a single unit and arouse the same uneasiness. In fact, imaginatively designed parks could act to counter the urban trend toward ever larger public school units. Smaller schools at each level can be economically built as units within the park; and careful planning can afford a reasonable degree of privacy for each unit while still providing access to the shared facilities of the park.

Some critics are particularly concerned about the park's loss of neighborhood interest and involvement. The criticism assumes that most urban public schools today are neighborhood based, and that they generate considerable neighborhood involvement. Serious doubts can be raised about both assumptions: we may well be worrying about the possible loss of something already extinct. In any event, there is no evidence to indicate that only a neighborhood-based school can generate parental concern, or that a metropolitan park could not duplicate this feat, or that there is a close and negative association between the size of the attendance area and involvement.

The criticism does raise an important planning issue. How can the park be initiated and planned to heighten parental and community interest? Certainly, special facilities, university liaison, and cooperation with parochial schools could help generate community pride and interest. So could smaller schools and a park school board of parents with wide authority. Furthermore, widespread use of the park for adult education, community affairs, and so on, might also contribute to public involvement. Indeed, special facilities of the park lend themselves to such adult use more readily than the typical school today.

Finally, one might ask how such a metropolitan educational park plan fits with other such widely discussed possibilities as "decentralization" and "community-controlled schools." First, it should be noted that decentralization and community control are typically advanced either apart from integration considerations or as outright alternatives to integration. "The Bundy Report" for New York City, for instance, could well lead to racially homogeneous districts that would institutionalize racial segregation for generations to come. Yet there is an obvious need in such large and unwieldy systems as New York and Chicago to decentralize authority, as well as a general need to increase parental and community involvement in public education.

Similar to compensatory education, however, these possibilities acquire force and meaning when they *accompany* the drive for integration rather than substitute for it. Thus, effective decentralization need not take the form of isolated social class or racial islands, but should assume the metropolitan wedge shapes described earlier as ideal attendance areas for educational parks. New York City's schools *could* be organized along the lines suggested by "The Bundy Report" in such a way as to help rather than hinder integration.[39]

In summary, then, those who say there is nothing we can do about the educational segregation of our major cities are fortunately wrong. This is not to say that desegregation progress will be easy, or even that we will do what is necessary to achieve such progress. But it is to say that it potentially *can* be done for a significant number of urban Americans, white and Negro.

### A FINAL WORD

Stripped to its essentials, the argument of this chapter is as follows:

1. It is widely acknowledged that public education needs a major restructuring. While numerous proposals and models for the future exist now, little discussion has begun on a systems approach of optimal mixes of these models.

2. Despite difficulties in evaluating present and proposed programs in public education, there is growing empirical evidence, especially from recent federal studies, to indicate the critical importance of the social class climate of a school's student body. And, this evidence strongly suggests a model of learning which stresses that children teach children, and the need for public education that is heterogeneous in both social class and racial terms.

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[36] The old stereotype of parochial school students as children of working class immigrants is outdated. Roman Catholic children who comprise the students for the Church-operated educational systems tend as a group to be distinctly higher in socioeconomic background than Roman Catholic children who attend the public systems. Thus, inclusion of parochial pupils in public school courses and programs is likely to facilitate social class as well as racial balance.

[37] The Philadelphia Urban League, in proposing nonmetropolitan parks for a central city system whose student body is already majority nonwhite, has advanced just such a plan.

[38] F. Keppel, *The Necessary Revolution in American Education* (New York: Harper & Row, 1966), p. 19.

[39] Private communication from Professor Dan Dodson of New York University. Of course, *no* decentralization and redistricting plan in New York City can solve the problem of desegregation alone. The point is that it can be made to seal in racial and class segregation or to improve slightly the situation depending on how it is accomplished.

3. It is demographically possible to provide such heterogeneous education everywhere in the United States. The chief challenge to this statement are our largest metropolitan areas; and it is here that the metropolian educational park, with its advantages and disadvantages, becomes *one* important structural component for any future design for American public education.

In short, then we *can* provide "common schools" again; a question remains as to *will* we?

TELEVISION

Mr. MONDALE. Mr. President, there are two other incentive programs in this bill which I would like to mention specifically. First is the set aside of $45 million for the development and production of integrated children's television programs. Ninety-seven percent of all American families and 90 percent of all families of incomes of less than $5,000 have home television receivers. By the time the average American child graduates from high school he has spent 4,000 more hours watching television than he has in the classrooms of our Nation. Studies have shown that children from low-income families watch even more television than those from middle-income families and that black children watch more television than white children. The potential for using home television reception to further equal educational opportunity is tremendous.

That educational television for young children can be successful has already been demonstrated by one imaginative dedicated group of individuals. I refer, of course, to Sesame Street which has been widely acclaimed and awarded and which has unquestionably benefitted children from disadvantaged inner-city communities, from middle-class suburbs, and from isolated rural areas by providing an effective medium for teaching young children important facts and learning skills. This is clearly demonstrated by the recent findings of the Educational Testing Service of Princeton, N.J., "The First Year of Sesame Street: An Evaluation," a report evaluating the results of Sesame Street.

First, it was found that children who watched the most learned the most. Second, the skills that received the most time and attention on the program were, with rare exception, the skills which the children learned the best. Third, children viewing Sesame Street at home showed gains as great as, and in some cases greater than, children who watched in school under the supervision of a teacher. These were the major findings of the report. Some of its other findings are even more interesting.

As between advantaged and disadvantaged children, although disadvantaged children started out with considerably lower achievement scores on the skills taught by Sesame Street, those who watched a great deal surpassed those middle-class children who watched only a little. The program thus demonstrated that television can reduce the educational gap that usually separates advantaged and disadvantaged children even by the time they enter first grade.

The report also contains a finding which ETS rated "highly tentative" but which is particularly interesting: Sesame Street may be especially effective for the teaching of some skills to children whose first language is not English and who do not test well or perform well in school. Thus, a small sample of children from Spanish-speaking homes in the Southwest made more spectacular gains than any other subgroup of children tested.

I cite these findings because I believe Sesame Street to be one of the most successful educational programs in or out of school anywhere in this country. Sesame Street has clearly demonstrated the potential of educational television. The least we can do is to build on that success.

BILINGUAL, BICULTURAL PROGRAMS

The second special program which I would like to mention concerns the reservation of $45 million for programs to meet the special needs of minority group children who are deprived of equal educational opportunity because of language barriers and cultural differences. To continue to defer bilingual and bicultural education, it seems to me, is absurd.

The need for meeting the special educational needs of minority group children with these problems is unquestioned. The Department of Health, Education, and Welfare estimates that there are 5 million pubic school children who come to school with limited English-speaking ability. Title VII of the Elementary and Secondary Education Act serves only 54,000 of these students. According to HEW's 1968 elementary and secondary school survey there are 2,002,776 Spanish-surnamed students, 177,464 American Indian students, and 194,022 oriental students in schools in the continental United States. According to the Bureau of Census, only 31 percent of the 9,230,000 persons of Spanish origin in the United States consider English their mother tongue. Half reported that English was usually spoken in their homes; 20 percent speak no English at all. Among Spanish origin persons between the ages of 16 and 25 who reported to the Bureau of the Census that they were able to read and write the language usually spoken in their homes, twice as many had completed at least 4 years of high school when that language was English than when it was Spanish.

I have heard no more disheartening description of the plight of the non-English-speaking young school child than that by Mr. Enrique Hank Lopez, quoted in the New York Times yesterday:

For every human being, the greatest period of learning is from birth to age 5, and for the Chicano child that learning is taking place in this schizolingual amalgam which is mostly Spanish.

This is the child's principal cognitive tool, but the day he enters school it is snatched away from him. You may as well perform a partial lobotomy on him. He's so severely traumatized at a crucial period in life he may never recover, and he starts dropping out the first day of kindergarten. When he's forbidden to talk his own language, he gets a terrific sense of inferiority and guilt. He begins to dislike himself and his parents and everybody else.

PROGRAM ADMINISTRATION AND ESAP

Mr. President, I have discussed the need and the potential for success of the major features of the bill before us. But no legislation can be successful unless it is administered properly.

Last August the Congress appropriated $75 million for what has been called the emergency school assistance program. I shall not take the time now to review the history of that program. There have been two exhaustive evaluation reports, one prepared by the Government Accounting Office, which was released in early March, the other by six nonprofit organizations. A reading of these reports, I must say, gives me little confidence in the capacity of the Department of Health, Education, and Welfare to administer this legislation without strong safeguards and administrative guidelines in the bill. It is because of the history of the emergency school assistance program that the Labor Committee has included in the bill strong safeguards modeled upon those added in the Senate to the emergency school assistance program appropriation. The committee has also, both in the bill and the report set forth mandatory directions to the Commissioner to try to assure proper administration of this program.

The safeguards prohibit funding of local educational agencies which engage in the following practices: Aid to private segregation academies operating as alternatives for white students fleeing desegregated public schools; discrimination against minority group teachers or other minority group personnel; segregation of children within schools for a substantial portion of the school day in conjunction with desegregation or the establishment of an integrated school; limiting participation of minority group children in extracurricular activities or limiting extracurricular activities in order to avoid the participation of minority group children; and other discrimination on the basis of race, color or national origin.

The application of these safeguards is crucial. The value of integrated education to the children involved in the programs under this act will be lost if discrimination continues to be practiced within schools which are desegragated. When a qualified black teacher is fired because of his race, or Chicano students are placed in segregated classrooms, the message is not lost on the students or on the community at large.

Mr. President, I would like to mention one other aspect of the administration of the ESAP program. That program was presented to the Congress as a project grant program. The bill which we have before us is a project grant program. Funds were to be granted under ESAP and are to be granted under this bill only on the basis of need and merit. Unfortunately, in an effort to assure that school districts were funded as quickly as possible, ESAP money was in fact awarded on the basis of a formula under which each school district was told the maximum amount of funds for which it was eligible. I would like to quote from the committee report on this bill with respect to such practices:

The Commissioner of Education should not for any purpose in connection with the administration of this program issue guidelines, formulas or allocation tables to school districts stating the amount of funds for which

they might be potentially eligible. Eligibility for funds under this bill is based entirely upon the provisions set forth in Section 5. There is no authority for the setting of maximum or target figures with respect to financial assistance to eligible school districts.

It is clear that this bill leaves no room and contains no authority for the award of funds to school districts on any entitlement or formula related basis.

STENNIS AMENDMENT AND ENFORCEMENT

Mr. President, the bill now before us concerns the education of our Nation's children. It is not a bill which deals or in any way changes legal standards or enforcement procedures with respect to school desegregation.

Indeed, this legislation tacitly assumes that whatever the law may be, it should be enforced nationally and uniformly everywhere.

I know, and the committee recognizes in its report, that this is not the case either with respect to particular regions of the country or with respect to all minority groups. Indeed, the junior Senator from Mississippi made a speech a week ago today in this Chamber in which he challenged his colleagues to refute the data which he cited and which demonstrate that racially isolated schools are more prevelent in the North and West than in the South. The statistics presented by the Senator from Mississippi cannot be refuted, nor can it be accurately said by anyone in this Chamber that we have a uniform national policy on school integration or that the law is being equally enforced in all regions of the country.

The Senator from Mississippi noted that the Department of Justice and HEW have taken only 15 enforcement actions outside the 17 Southern and border States since 1965. This has been the case even in the face of congressional directives in the Labor-HEW Appropriation Act of 1969 and in the Elementary and Secondary Education Amendments of 1970, that title VI must be enforced on a national basis.

Moreover, enforcement activities by the Departments of HEW and Justice have largely ignored discrimination against children belonging to national-origin minority groups—Chicano, Indian, Puerto Rican, Oriental—although title VI specifically refers to discrimination on the basis of race, color, or national origin. Although the Department of HEW issued a memorandum concerning discrimination against national origin—minority children last year, HEW and Justice each have taken only one enforcement action based primarily upon discrimination against national origin—minority group children, and have incorporated discrimination against such children in only a small number of other enforcement actions.

We must have uniform national enforcement of the laws prohibiting discrimination based upon race, color or national origin in our public schools.

But the amendment proposed by the Senator from Mississippi will hinder, not help, in achieving this goal. It does not strengthen title VI to make nationwide enforcement easier. In fact, because it is framed as a declaration of policy, the amendment probably has no effect at all, as a matter of law, on the requirements of title VI. Although it can be read to ask for a uniform national policy against discrimination in public education—a policy I vigorously support—many will read the amendment to excuse enforcement of title VI against official discrimination, North and South alike, until such time as the courts declare purely adventitious segregation unconstitutional. This would be a tragic result.

This is no time for a national policy of retreat. It is time to move forward with nationwide enforcement of the Constitution and title VI, and with a national program of financial assistance for quality education in integrated schools.

HEW and Justice, despite the demands of the Congress, have been reluctant to proceed against official discrimination except in the form of segregation required by State law, and have failed to proceed adequately against discrimination based upon national origin.

It is my hope that section 11 of S. 1557, which provides for payment of attorneys' fees and costs in successful suits under title VI, the equal protection clause of the 14th amendment, and related legislation will, by opening up the resources of the private bar to parents of children, and teachers supply the impetus for a truly nationwide program of law enforcement by both the Federal Government and the private bar.

In addition, I would hope that those of my colleagues who wish to see nationwide school integration efforts would support S. 1283, introduced by Senator RIBICOFF, as well as the bill now before the Senate. Unlike the amendment proposed by the Senator from Mississippi, S. 1283, of which I am a cosponsor, would provide significant integration of schools on a metropolitan areawide basis, throughout the Nation, within 10 years.

There is urgent need for a vigorous program, which includes participation of the private bar, to enforce the antidiscrimination provisions of title IV and the 14th amendment throughout the Nation and with respect to children and teachers from all minority groups. And there is urgent need for a commitment to provide metropolitan solutions to the problem of public school segregation in metropolitan areas. There is urgent need for a national program of incentives to provide quality, integrated education in schools desegregating under law or integrating voluntarily.

The legislation before us today establishes a nationwide Federal standard for the elimination of racial isolation and for the establishment of integrated schools wherever such isolation exists.

What this legislation proposes to do, for the first time, is to provide financial incentives for integrated education. It asks that this country focus on what is best for school children. If our attentions are diverted from this issue, we shall be doing a disservice to the school children of America.

That is not to say, however, that we will not have to face up to the issues posed by the Senator from Mississippi. I am prepared to vote for any provision which is designed to enforce the laws of the Nation uniformly and equally. But I will not vote for a proposal which I am convinced is designed, admittedly or not, directly or indirectly, to turn back the constitutional clock. I will not vote for a proposal which says to those children whom the law now protects that they will be denied its protection until those whom the law does not protect are brought within its reach.

Mr. President, I would hope my colleagues would have time to carefully review the record contained in the hearings, a copy of which is on the desk of each Senator. Time and time again we have heard this plea for quality integrated education from educators, parents, teachers, and academicians.

This measure enjoys the support of the present administration, the leadership on the Republican side of the Subcommittee on Education of the Committee on Labor and Public Welfare, and the majority side of the Committee on Labor and Public Welfare.

There is no time to review the statements and appeals we have heard from all over the country establishing the need for the proposal which is pending today. One of the most revealing statements came from Dr. Wayne Teague, superintendent of the desegregated school system in Auburn, Ala. This school district was required to desegregate under court order.

Dr. Teague's testimony is found on page 649 of the hearing record.

On page 655 of the hearing record the following colloquy appears:

Senator MONDALE. It is your judgment and the teachers' judgment that the children from the poorer backgrounds are doing better than they did in the all-black schools?

Dr. TEAGUE. Yes, sir; and we have more to go on than just this year. We have had freedom of choice in our community now for a number of years and we have had token integration before this year. Well, last year we had more than token. For the black students who have been to white schools for more than a year, there is just no comparison in the rates of achievement they are making now and what they did in the past.

I think this needs to be noted also. Our community is one of extremes, more so than a typical Southern community.

Then, he explained that Auburn is a college community. I commend this testimony and the other testimony, but especially I commend this testimony because it is a revealing declaration by an educator in a school system desegregated under court order which I found to be most revealing.

I yield the floor.

Mr. ALLEN. Mr. President, will the Senator yield for a question or two?

Mr. MONDALE. I am glad to yield.

Mr. ALLEN. I was interested in the

comments of the distinguished Senator from Minnesota that in the desegregation of public schools process the welfare of the schoolchild has been neglected. Certainly the junior Senator from Alabama would agree with that assessment because he does believe the Department of Health, Education, and Welfare and the Supreme Court, in their efforts to experiment sociologically, have lost sight of the welfare of the schoolchild and that less interest has been taken in educating the child than in experimenting sociologically.

The junior Senator from Alabama would like to point out that in his judgment this bill does not provide the schools and the schoolchildren in the South treatment equal to that provided to the schools and the schoolchildren in the North, because necessarily there must be read into this bill and made a part thereof the present Federal school policy regarding desegregation of public schools. Under that Federal school policy the immediate forced desegregation of the public schools of the South is required, whereas in areas outside of the South the present system of segregation is fostered, and encouraged, and perpetuated.

But the junior Senator from Alabama would like to inquire of the distinguished Senator from Minnesota if it would not be best, if it would not occupy top priority, to provide in this bill that we shall have a uniform system of Federal policy as to desegregation of public schools, because under this bill there is a carrot-and-stick approach as regards the schools in the South and only a carrot approach as to schools outside the South. Would the Senator comment on that?

Mr. MONDALE. I am very grateful to the Senator from Alabama for the question.

First, let me say that there is no question in my mind that the schoolchildren have been too often forgotten in the legal struggles, the political struggles, surrounding desegregation. But this failure is to be found at all levels of government. The answer is not to draw back from this Nation's commitment to enforce the law and this Nation's commitment to quality integration for all of our children, but to do it in a sensitive, intelligent, child-oriented way. That is where the damage has occurred.

In my opinion, the reason why this measure has such great promise is that it rests on educational practice, educational experience. In order to have quality education, children must come first. Children must be accepted fully. They must be accepted as equals. We must support their own self-esteem. It is this sort of inhumane disregard for the needs of all children, particularly where they are brought together for the first time, which has caused so much damage. What we seek to do by this measure is to do it right.

Let me get to the second question asked by the Senator from Alabama. Perhaps the Senator would be pleased by section 11 of the pending measure, because it seeks to do something about the problem to which the Senator makes reference. I said in my remarks that the Senator from Mississippi was accurate when he said that only 15 lawsuits were brought outside the South in the last 7 or 8 years. I pleaded with the Attorney General, I pleaded with the Secretary of Health, Education, and Welfare, to make this a national program. If desegregation should be required in Biloxi, it should be required in the communities of the North and the West. We must prohibit official discrimination wherever it is found, and in addition, we must support quality integrated education for educational reasons and from the standpoint of maintaining a united Nation.

I was shocked to learn, and I did not realize, that the Justice Department spends only $1 million annually to enforce school desegregation policies throughout the country. Therefore, in our bill we set aside $15 million for private lawsuits, so that parties seeking to enforce the Constitution in school desegregation matters can bring lawsuits to enforce compliance with the law anywhere in the country, North and South, and on behalf of other minorities as well as blacks.

There has been practically no concern shown for other minorities. There has not been enough shown for blacks, but practically none for the others. One of the things that will help us move toward a more consistent national, across-the-board policy would be the adoption of section 11.

The other opportunity we are going to have is to adopt the amendment, now pending, by the Senator from Connecticut, which would require every metropolitan area of the country, North, South, East, and West, to establish a metropolitan program for integration and desegregation. So we are trying to deal with the need for an effective, wholehearted national policy of enforcement.

Mr. ALLEN. The junior Senator from Alabama was not asking that we draw back; he was suggesting the advisability of going forward and to apply to the North the mandatory desegregation requirement that is exacted of the South. The Senator thinks that would be going forward rather than drawing back.

Mr. MONDALE. I think the same law that applies to the South applies to the North. I think there are some who are pursuing a policy of nonenforcement, and I am pursuing a policy of enforcement everywhere.

Mr. ALLEN. Would the distinguished Senator from Minnesota care to classify the progress of desegregation in the North? Is there more segregation in the public schools in areas outside of the South than was the case 5 years ago, or is there less, or is there approximately the same? Would the Senator care to characterize the status of desegregation in those areas?

Mr. MONDALE. I do not think there is any question that there is more segregation today in the North than there was last year or the year before. Our record shows and we stated in the record that there has not been a policy of eliminating segregation in the North or in the West, and that the present population trends are making the major cities blacker and blacker and the suburbs whiter and whiter. The question is, what are we going to do about it?

The Senator from Connecticut disclosed that the new census data shows, if anything, that the situation is getting much worse. The question is, Are we going to do anything about it?

The record will show that I pleaded with the Attorney General two or three times, and the same with respect to the Secretary of Health, Education, and Welfare, that we have a national law enforcement policy. I do not think they are doing enough in the South, either, but I think we ought to have an effective law enforcement policy in the North and South, East, and West.

The distinguished Attorney General of Mississippi came to Minneapolis recently to investigate us. We welcomed him. We said if there is any discrimination found there we want to eliminate it. We expect to be just as exposed to effective legal action as any other community.

Mr. ALLEN. The distinguished Senator, then, would support not only the Ribicoff amendment but also the Stennis amendment, which would seek to provide for uniformity of the desegregation process?

Mr. MONDALE. The Stennis amendment, in my opinion—I regret that the Senator from Mississippi is not here—has one fatal flaw. In my opinion, it is likely to lead to a national policy of nonenforcement rather than a policy of enforcement. But I have a perfecting amendment that I will suggest which will declare a national objective of affirmative law enforcement, of constitutional protection in every community in the country where there is official discrimination, and I think Senators who want such a course should support that amendment.

Mr. ALLEN. Does S. 1557 make mandatory the desegregation of a single public school in the United States?

Mr. MONDALE. Let me say that this is not a law enforcement bill. This is an education bill. I had some trouble getting the legal fee section because of the desire of so many to deal only with the question of educational policy and a course to encourage stable quality integrated education. We stated in the report the committee's desire for a much better national policy of law enforcement. We would certainly encourage that.

If the Stennis amendment issue arises, I may well propose the following language, and I would hope the Senator from Alabama could join with me in it:

Responsible officials are directed to conduct a program for the elimination throughout the nation of discrimination based upon race, color or national origin in federally assisted programs and activities affecting pub-

lic education, as required under Title VI of the Civil Rights Act of 1964.

That would make it very clear that we want such a national policy.

Mr. ALLEN. Very well. The Senator has suggested the addition of section 11 to the bill, providing for the payment of attorneys' fees to private attorneys for successfully prosecuting desegregation suits.

Would not the Senator think that this payment of attorneys' fees out of public funds would be champertous or barratrous, to provide for any such payment?

Mr. MONDALE. Let me say that practically all, if not all, of the funds spent now for lawyers to resist integration are public funds. Section 11 is designed to equalize the situation a little bit. In order to avoid champerty, fees can only be awarded on successfully obtaining a final court order. I think the Senator from Alabama is an attorney and I am an attorney. As attorneys, we do not want to encourage champertous lawsuits. But we do think there is a major crisis in the enforcement of constitutional protections affecting civil rights in this land, in the South, in the North, in the East, and in the West.

For example, there has been wholesale firing of black teachers and principals in the South. No one seems to argue that any more. And as far as I know, very few cases have been brought by the Justice Department. That is a tragedy.

There are problems in the North, to which the Senator has made proper reference, and despite our pleas, no lawsuits have been brought. They should be brought.

There is only $1 million set aside for law enforcement in the Justice Department in this terribly important area. They have not asked for more. This attorneys' fees provision is designed to provide for remedies in this area such as we have seen in the areas of employment and public accommodations.

Mr. ALLEN. The Senator suggests, then, that desegregation suits might be brought in areas outside the South, if this $15 million for attorneys' fees is set up?

Mr. MONDALE. Oh, yes.

Mr. ALLEN. Does he feel that the offer of these legal fees to the bar of the North might awaken their social consciousness to this problem? Is that what the Senator is suggesting?

Mr. MONDALE. And in the South, too. There have been allegations by the National Education Association that several thousand black teachers have been fired in the South, or demoted. I would like to see lawsuits brought on that. There has been testimony that some schools have taken public property and given it away to segregated private academies. I would like to see some lawsuits brought on that. That I would like to see some lawsuits brought in the North where there is official discrimination. Unfortunately, they have not been forthcoming.

One of the reasons for this attorneys' fees section is to try to make national law enforcement, including private cases. What is needed is a national policy of enforcement. We do not have it today.

Mr. ALLEN. What the Senator suggests, then, is that in the South, where there has been a multiplicity of suits in this area, other suits might be filed for reasons other than the social consciousness that now exists among the lawyers of that region?

Mr. MONDALE. The Senator might consult with the Justice Department as to why they have the policies that they have today. There is a crisis affecting our schools, resulting in racial minority separation throughout this country. No region can argue moral superiority, including my own. In order for this country to enforce the law, clearly something more needs to be done than we have done, and that is one of the reasons for the attorneys' fees provision. That is why the Senator from Connecticut (Mr. RIBICOFF) is proposing his amendment. That is why I shall stand behind any proposal that would strengthen the enforcement of the laws of this land; and that is why we are here with one of the most sensitive, responsible educational proposals I have ever seen, to try to encourage, through wise use of Federal funds, the establishment of stable racially equal public schools throughout this land.

Mr. ALLEN. The desegregation of public schools in areas outside the South would seem to be pretty well an untapped field; would it not?

Mr. MONDALE. There have probably been more voluntary efforts at desegregation outside the South than elsewhere, but the basic facts of racial isolation to which the Senator and others have made reference, and to which we make reference, remains uncontested. There is a great deal remaining to be done around the country, in many, many communities in the South, the North, the East, and the West.

Mr. ALLEN. The Senator realizes, of course, that desegregation of public schools in the South has pretty well been accomplished?

Mr. MONDALE. Well, I do not agree with that. I think there are many problems in the South. I think under court orders, impressive progress has been made. I think many communities have tried very hard, and deserve tremendous credit.

I refer the Senator again to the testimony by the Superintendent of Schools of Auburn, Ala., who said that even though they were forced to desegregate, he personally thinks the desegregated school system is better than the previous school system. But there is plenty of work yet to be done of a law-enforcement nature, in the South as well as other parts of the country. I do not want to be misunderstood on that.

Mr. ALLEN. As to those systems that have already desegregated to the satisfaction of HEW and the Justice Department, would any funds be available for those systems under this bill?

Mr. MONDALE. They certainly would.

Mr. ALLEN. Under what wording of what section of the bill?

Mr. MONDALE. It is really the bill itself. The whole thrust of the measure is to provide assistance for the establishment of districtwide desegregation, to establish excellent quality integrated schools. And may I say that this measure is not limited to what might be termed the minimum judicially declared standards for desegregation under the 14th amendment. We go beyond that. This is a measure which bases its conclusions on what children need, on what makes educational sense, and on what the country needs, whether the 14th amendment requires it or not.

There may well be many school districts which have desegregated in a minimum way under some court order, which fall for short of the standard that we think is necessary and that has been proven to be necessary for good, stable, quality integrated education, and this proposal is designed to be of help in that area.

So there are many school districts that may find the provisions of this measure very helpful indeed. I would refer the Senator to page 2 of the committee report, which defines school eligibility.

Mr. ALLEN. I was asking for a citation to the bill itself, not to the committee report.

Mr. MONDALE. Section 5(a)(1)(A) is where it begins, on page 5.

Mr. ALLEN. As to a district that has already desegregated.

Mr. MONDALE. I refer the Senator to line 1 of page 6.

Mr. ALLEN. Yes, but that is one that is in process of being implemented. Would the Senator be surprised to learn that a school district in Alabama was denied relief under the $75 million appropriation of last year on the ground that it had already perfected its desegregation plan, and that no further assistance was needed?

Mr. MONDALE. As the Senator will recall, the first $75 million was spent under existing authorities. It was not new legislation. This measure, to answer the Senator's question, is a much broader, more comprehensive measure, and it includes assistance to school districts which have physically completed desegregation orders. It includes a whole host of flexible remedies and assistance to achieve districtwide school desegregation and for the establishment of quality integrated schools. It is a much broader measure.

Mr. ALLEN. The Senator would agree, I am sure, that the theory of the Supreme Court in the Brown case in 1954 was that a segregated school system provided an inferior education for the child in the segregated system. That being true, I am wondering why there has been so little

effort in the Halls of Congress by Members from areas outside the South to remove the child in areas outside the North from their inferior system of segregated schools and to provide integrated schools which would be superior to the segregated schools. I am wondering why so little has been done and why the Senator said a moment ago that there is more segregation in areas outside the South than there was last year and more than there was 5 years ago.

Mr. MONDALE. I seem to be having some trouble in communicating.

In no sense is the Senator from Minnesota arguing that the North is clean on the official discrimination issue. In no sense am I arguing that. In no sense does the committee argue that. The committee makes it very clear that there has not been a national policy of law enforcement. There is not today a national policy of enforcement, and the figures are beyond argument.

Now the question is whether we are going to escape into sterile legalism, or are going to debate about who is most hypocritical in this issue, or whether we are going to get down to work and do the job. We are going to have several opportunities to do the job during the course of this debate.

First of all, we can adopt this proposal, which is a national bill, a most sweeping sensitive education-oriented proposal, which comes out flatly for quality integrated education throughout this country, which looks to district wide school desegregation, and for the first time encourages metropolitan efforts at school desegregation.

Second, we have a provision, section 11, which will increase present funds to enforce the law against school desegregation around this country 15 times. Added to that will be the amendment by the Senator from Connecticut which would mandate a metropolitan approach, and we will have an opportunity to prove how hypocritical we are when that measure comes up.

In addition, I propose to submit an amendment that lays out the requirement of a national enforcement policy in such a way that no one can deny it—a policy of enforcement, not a policy of nonenforcement; and everyone in this body will have a chance to see who the hypocrites are in that issue.

Mr. ALLEN. Does the Senator plan to add that to the present bill?

Mr. MONDALE. I will make a statement on that a little later. It will be on this bill.

Mr. ALLEN. The junior Senator from Alabama will be interested in seeing any such bill or any such amendment. He would be interested in seeing that, and he would like to have a copy of it at an early date.

Mr. MONDALE. I read it earlier for the record. It will be a part of the record.

Mr. ALLEN. In the matter of the amendment offered by the distinguished Senator from Connecticut, the junior Senator from Alabama would certainly commend the Senator for his statesmanship in seeking to provide a uniform national school policy on desegregation; and the Senator from Connecticut has disregarded any possible political consequences for his action, because the junior Senator from Alabama does not observe many Senators or Representatives from his—Mr. RIBICOFF—section of the country anxious to desegregate the public schools of the North. So the junior Senator from Alabama applauds the statesmanship of the distinguished Senator from Connecticut, because he does seek to establish a uniform national policy.

In that connection, as the distinguished Senator from Minnesota pointed out a moment ago, this would provide in metropolitan areas for achieving a 50 percent racial balance in the schools in that area over a 14-year period. I believe that is the provision of his amendment. What disturbs the junior Senator from Alabama is this: Would that comply with the Supreme Court rulings which, as regards school systems of the South, have demanded immediate desegregation of the entire systems? In other words, would this actually—while it would be a great forward step toward desegregation in the North—be a backward step as regards desegregation in the South?

Mr. MONDALE. Can the Senator from Alabama tell me of a single decision of the Supreme Court which had required a multidistrict solution in the South?

Mr. ALLEN. Yes. Very definitely.

Mr. MONDALE. Would the Senator please refer me to the case?

Mr. ALLEN. The Mississippi cases had some 30 districts involved.

Mr. MONDALE. No. There was more than one district involved in the lawsuit. I am inquirying about a case in which the desegregation order dealing with the desegregation problems of a single district required the distribution of those students outside that school district. Can the Senator refer me to one such case?

Mr. ALLEN. Yes. A number of school districts in some of the larger cities occupying more than one district, inside of the cities.

Mr. MONDALE. May I say that that is not my understanding. The courageous aspect of Senator RIBICOFF's proposal, to my knowledge, goes clear beyond any constitutional requirement of which I know. There are a few cases in which school district boundaries have been drawn——

Mr. ALLEN. Yes.

Mr. MONDALE. In order to maintain a discriminatory school system, and the courts have struck those down.

Mr. ALLEN. They have been redrawn to provide an integrated system. That is what the junior Senator from Alabama has reference to, and is complaining about.

Mr. MONDALE. These district boundaries were drawn to create a discriminatory system. In other words, the line was drawn so that the black and the white schoolchildren would continue to be separated. In some of those cases I think there are court orders saying, "We know what the motivation of the drawing of that district was, and we find that act one of official discrimination." But I do not know of a single Supreme Court order that has told a central city which has a segregation problem or a discrimination problem that part of the order will include a requirement that surrounding school districts must accept children from that district. I know of no such order; I do not think there are any.

Courts have looked at single districts. Many times they have had class actions involving several districts, but the remedy has been limited to a single district.

What is unique and courageous about the proposal of the Senator from Connecticut is that it goes clear beyond the constitutional requirement to deal with the real, human situation, which is not going to be dealt with effectively in any other way, through a metropolitan multidistrict approach.

I would be most grateful if the Senator from Alabama and others would join us in support of this national policy to eliminate discrimination and segregation in the great metropolitan areas.

Mr. ALLEN. All right. Speaking of metropolitan areas, what would be the Senator's plan, then, for desegregating the public schools of Harlem, to which he made reference in his speech? Would he suggest moving the black students from Harlem, out of that district, into surrounding districts, or would he bring white students into the Harlem district? How would he go about that?

Mr. MONDALE. I think the Senator from Alabama will find this bill very encouraging because we propose a host of remedies——

Mr. ALLEN. Which bill is that?

Mr. MONDALE. The underlying bill. Then added is the proposal of the Senator from Connecticut (Mr. RIBICOFF).

Mr. ALLEN. I thought the Senator said there was nothing mandatory about this? The Senator does not think they will desegregate unless it is required?

Mr. MONDALE. Two things can be said. First, this measure does provide counsel fees to bring action in Harlem or anywhere else if there is found to be official discrimination. It has been my assertion that much of the so-called de facto segregation, upon analysis, will prove to be official discrimination. So, we have encouraged the Justice Department to seek official remedies throughout the country. We now provide increased funds and a new remedy for enforcement against violations of law, wherever found, and also provide funds for desegregation and integration efforts within the school districts of New York and throughout the country

If the Senator from Alabama will join us further in adoption of this amendment by the Senator from Connecticut (Mr. RIBICOFF), there will be mandated an entirely new remedy not required anywhere in the country and not required by the Constitution; but what would be required by this amendment is a metropolitan approach under which schoolchildren would be introduced into suburban school communities in a very in-

telligent and, I think, educational and sensitive way.

Mr. ALLEN. The objection——

Mr. MONDALE. The Senator from Alabama is deeply concerned, and he obviously is, about segregation in New York, and there are some remedies here on which his help would be most appreciated.

Mr. ALLEN. Well, the junior Senator from Alabama does not know just how effective he would be in desegregating the public schools in the State of New York when dozens and dozens of Representatives and Senators from that State have been unable to accomplish it. This Senator doubts if he could be of much assistance in that regard.

Mr. MONDALE. I think the most courageous proposal I know of dealing with the metropolitan problem is that presented by the Senator from Connecticut. If we are concerned about this problem from a national viewpoint, which I think we must be, we will have the opportunity to adopt that amendment.

Mr. ALLEN. One of the chief objections of the junior Senator from Alabama as to the bill under discussion, S. 1557, is that it apparently is based on an incorrect premise; that is, that northern and southern schools alike are being desegregated on the same basis; because, since that is not true, the exact condition that we find the desegregation process in as regards northern and southern schools must be read into and become an integral part of this legislation and the schools of the South are required to desegregate and if they do desegregate by court order or voluntarily——

Mr. MONDALE. Will the Senator from Alabama yield right there?

Mr. ALLEN. Let me finish my thought first, please. But then S. 1557 would confer certain monetary benefits on them. But as regards the schools outside the South, they are not required to desegregate under the present enforcement provisions of law. If they should voluntarily decide to desegregate or if, accidentally, sometime in the future, there would be a court order requiring them to desegregate, then the monetary benefits would be conferred upon them. But there is nothing that seeks to require the desegregation of the schools in the North, whereas that is already required by existing Supreme Court rulings and policies of the Department of Health, Education, and Welfare in the South.

Mr. MONDALE. There is no question in my mind that there is a requirement in the Constitution, which runs to every school district in the country, prohibiting discrimination against schoolchildren.

Mr. ALLEN. Then why has not something been done about it since 1954?

Mr. MONDALE. That is an excellent question. We are trying to do something about it now. I have pleaded with the Justice Department for a national policy, to do a better job of enforcing the law not only in the South but also in the North, East, and West.

We have been so frustrated about it that we have added a unique, new feature in the bill, providing $15 million, which is 15 times more than the Justice Department is spending now——

Mr. ALLEN. That is unique——

Mr. MONDALE. For enforcement throughout the country. And the Senator from Connecticut has proposed mandating a metropolitan approach.

Let me read the Senator the language the committee agreed on, on page 25 of its report:

These laws—

Referring to title VI and the 14th amendment—

are not now being enforced throughout the nation. The Federal government is devoting neither the time, effort nor the financial resources necessary for adequate law enforcement. For example, the budget of the Justice Department's Civil Rights Division for education activities amounts to only $1 million a year. Only six school desegregation suits have been brought in Northern and Western states by the Justice Department. Only nine school districts in Northern and Western states have been required to file desegregation plans under Title VI of the Civil Rights Act of 1964. The Committee believes that funds should be made available to assure that Federal laws will be enforced throughout the country, while at the same time, under the policies and programs set forth in this bill, voluntary efforts to achieve quality education in stable integrated environments are assisted throughout the nation.

There is no question that the committee wants both to occur. This is an education bill. It goes farther than the minimum constitutional requirement. It must be read in the context of the Constitution and law enforcement. We want effective law enforcement. We have said so and have adopted this unique provision. There is no problem in terms of constitutional standards or constitutional requirements; they apply nationally. But there is a crisis in law enforcement.

Let me raise this question: It has been my impression that some who have argued there has not been a national law enforcement policy, a national program of equal enforcement, use that point to argue against any enforcement. Slow down in the South and do nothing in the North. I take a different position from the same facts, that we should have far better law enforcement everywhere. If that is what the Senator from Alabama wants, he will have no problem with the Senator from Minnesota.

Mr. PELL. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. PELL. This colloquy that has been going on between two lawyers leaves me, as a nonlawyer, with the thought that; this bill is not an enforcement bill—it is a voluntary, education bill, which no one need take advantage of it. It was worked out in committee in such a way that those communities—North, South, East, and West alike that desire to move in the same direction as the Senator is talking about, could take advantage of it. I would think that, quite likely, this bill will see more communities in the North decide to take advantage of it, than in other areas of the Nation.

I would hope that there would be proper competition between communities around the country in an effort to implement the bill.

Mr. ALLEN. Mr. President, the point the junior Senator from Alabama is making is that the school districts in the South and the school districts in areas outside of the South should be put on the same basis and on the same level and start at the same point on the track before we add this $1,500,000,000 appropriation.

We should equalize them on the matter of enforcement before we seek to add monetary benefits to those who do comply, because it is mandatory in the South. However, outside of the South it seems to be a matter of freedom of choice because, despite the good offices and the good intentions of my distinguished colleague, the Senator from Minnesota, desegregation is slipping in the areas outside of the South and the performance is very poor as regards the desegregation of the school systems outside of the South.

Mr. MONDALE. Mr. President, does the Senator from Alabama feel that he would be in a position to support us on the legal fees section so that we could do a better job in law enforcement?

Mr. ALLEN. Mr. President, I have not yet read the section. I would be glad to study it and give a quick appraisal of it.

Mr. MONDALE. That is a hopeful answer.

Mr. ALLEN. Yes, indeed.

Mr. RIBICOFF. Mr. President, this has been a very interesting colloquy. Hopefully before this week is over, much will be accomplished on one of the great, knotty problems facing our Nation.

I would hope that other Members of the Senate would emulate the colloquy had by the Senator from Alabama, the Senator from Minnesota, and the Senator from Rhode Island.

The debate we begin today will determine the future course of this society. No problem confronting us, whether it be environmental protection, welfare reform or improved health care is more critical to our future than the racial apartheid that threatens to become a national fact if not a national policy.

In 1954, the Supreme Court held in Brown against Board of Education, that separate but equal school systems threatened the vitality of our country and would no longer be tolerated. Today, 17 years later, we have entire communities that are separate and unequal.

For years we have maintained that this Nation could not survive with two classes of people, one rich and the other destitute, one in decent surroundings and one in slums, one white, and one black. For years dedicated men and women have worked in the Congress, in the executive branch and in courts throughout the country to see that America's promise of equal opportunity for all became a reality.

All that work is threatened today—not by the actions of vicious men but by the unwillingness of all of us to grapple with the problems we face. The 1970 census figures are only the last items on

a lengthy list of facts that should have warned us long ago that we were traveling the road to destruction.

Included at the end of this statement are tables detailing the drift of this country toward separatism. The most recent figures demonstrate that residential segregation is increasing in the South as well as in the North, that school segregation is more prevalent in the North than the South, and that the suburbs throughout this country are for all intents and purposes the separate preserve of affluent whites. Increasing numbers of Americans find that the road to success in this country ends at the city line. Jobs, housing, and the good life are over the line in the white sanctuaries.

We only delude ourselves and imperil our future by thinking that the suburbs will be able to insulate themselves from the decay and suffering of the central cities. We will all soon be infected and overcome by the disease unless we take steps to eradicate it.

Many argue that the blacks no longer want integration. And whenever a black man says this, you can almost hear the sigh of relief in the suburbs. Many blacks may not want integration. But most do. And our responsibility is to provide access to that opportunity.

For years we have found ways to duck this problem. We focused on the South as the only part of the country that denied its citizens equal rights. We have been delighted to let the courts take the lead on this issue—and thereby also take the heat. Year after year, anguished citizens in this country have had no recourse but to turn to the courts for relief. Too many men in public and private life have been anxious to be hesitant followers—and never leaders—on the question of integration. This is especially true of the President, who has a major responsibility in this field but has failed to exercise leadership.

The Congress has been just as willing to defer to the courts as the initiators as well as enforcers of efforts to provide equality. Last spring, a common refrain on the Senate floor was that the Congress could not end de facto segregation because the Supreme Court had not yet dealt with the issue.

The result of this systemwide avoidance has been that the last and only bastion of personal liberty has been the Supreme Court. To its credit, it has assumed the burden thrus' upon it and has attempted to solve these basic political and social problems. Progress has been achieved, however, at great cost to the Supreme Court and its ability to perform its functions effectively.

Our courts are not structured to be legislatures. They decide issues on a case by case basis that does not lend itself to legislating and administering national programs. If the courts continue to do our work for us, the ensuing public controversy will inevitably destroy their power and influence.

The Supreme Court is now struggling with several school segregation cases. No one can predict how the Justices will decide the issues. What can be predicted is that the work of two decades will go down the drain if the Court reaches out to rule that something called de facto segregation is permissible in this country. The white exodus to the suburbs will then accelerate in the South as well as the North.

Another thing is certain as we stand here today. The problem we face will not conveniently go away if we simply wait long enough for it to do so. Instead, every passing month aggravates the situation and makes it that much more difficult for us not to solve.

No greater tragedy could befall this country than to see the hopes, aspirations, and efforts of millions of Americans destroyed by our continued unwillingness to solve the problem of segregation.

We have the opportunity now, with the bill drafted by the Labor and Public Welfare Committee, to confront this issue and deal with it constructively.

Fourteen months ago I announced in the Senate that I would support an amendment offered by the Senator from Mississippi (Mr. STENNIS) proposing that this Nation adopt a uniform, national policy to deal with segregation, no matter what its origin or where it occurred. I will support the establishment of such a national policy again this year, for the intervening months have only made it clearer than ever that segregation is indeed a national, rather than a regional, problem.

The Senator from Mississippi (Mr. STENNIS) says the South will live with whatever program we in the North are willing to adopt. He challenges us, in effect, to implement a policy for the North as well as the South, for the suburbs as well as the cities, that will embody our goals for the society we want for the future.

I am confident we can meet that challenge and adopt a plan to end the slide toward racial separatism in this country. To accomplish this, I submit today an amendment to the committee bill that focuses on the problems of school integration in the North as well as the South on a metropolitanwide basis.

Until now, we have focused our attempts at integration on a district by district basis. However, in numerous areas of this country, the minority group school population of the metropolitan area as a whole is less than 25 percent, while the percentage in the central city, separately, is above 50 percent and increasing rapidly.

Unfortunately, the specter of this transformation tends to drive whites out of school districts as soon as the minority group population begins to increase. We will end this cycle only when we begin to integrate on a metropolitanwide basis. Only then can we destroy the stereotype of an integrated school as a predominantly minority school.

My amendment recognizes that we cannot afford to ignore the lessons of the past 17 years. We now know that massive social changes cannot be required overnight, nor can they be deferred until some indefinite time in the future. My amendment therefore envisions a 2-year pilot program, provided by the committee bill, followed by 2 full years for planning at the local level on the basis of the experiences of this pilot program. Up to 10 years would then be allowed for implementation of the plans developed.

Substantial progress would have to be made during each year of the plan, but the 10-year implementation period would allow local leaders and parents the time needed to insure that integration was a positive program implemented with the necessary planning and public education. At the end of the 10 years, every school throughout each metropolitan area would have to have a percentage of minority group students equal to at least one-half the percentage of minority group students in the metropolitan area as a whole.

For example, the percentage of minority group children in the Baltimore metropolitan area is about 32 percent. Under my amendment, each school in the Baltimore area would be required to have a minority group population of at least 16 percent no later than 10 years after adoption of an acceptable plan.

Adoption of such a national commitment and program now is vital if the money in the committee bill for pilot programs is to be useful. If the pilot programs are not clearly the precursor to implementation of a national program, we will have demonstration programs only in those areas where local politicians and school board members are willing to take the initiative and advocate such programs on their own.

There may be such communities and they deserve our help and encouragement. In most communities nothing will be done until the full and firm policy of the Congress is established and implemented. The critical areas, however, are those where local leaders would not voluntarily undertake a program of integration that was not a national requirement but would be willing and anxious to get in on the ground floor of an inevitable program. In many of these communities we would obtain the most meaningful information during the pilot program period.

My amendment would not mandate any particular plan or set of plans to be imposed from community to community across the country. Instead, great flexibility would be left to those involved at the local level, including parents and community members as well as educators and school officials. A plan useful and acceptable in Chicago might be substantially different than the plan for Hartford, Conn., or Durham, N.C. In addition, a plan developed at the local level is much more likely to be supported by those in the community than one imposed by authorities from Washington or another city. The planning process itself will serve an educational function for those involved at the local level.

A number of possible techniques are identified in my amendment, including construction of magnet schools and educational parks together with school redistricting, pairing and transportation. But it should be clear that this is not simply or primarily a busing proposal. If transportation is identified as a useful technique in a city, my amendment requires that the burden shall fall equitably on minority and majority children.

But, if we have to depend solely upon busing children from one area to another on a metropolitanwide basis to achieve integration, we will fail no matter what bill or plan we adopt.

Success will come only if we open up the suburbs for housing as well as education. Experience has shown that we will never have truly integrated schools until we have an integrated society. Schools have borne the burden of integration alone too long.

This does not mean we should not attack the segregation in our schools. We must.

But we must resolve to go beyond this and begin to provide housing in the suburbs for low- and middle-income whites as well as blacks.

My amendment recognizes, as does the committee's bill, that we can no longer require school systems to undertake new responsibilities or programs without sufficient funding to assure that the quality of education does not deteriorate. Two billion dollars a year would be provided for the training, construction and additional educational materials required by my program.

Under my amendment, any school district that does not cooperate in the formulation and implementation of the regional plan will be ineligible to receive Federal education funds. Furthermore, no State which provides State funds to a noncooperating school district will be eligible for Federal funds.

The amendment I have outlined will require leadership at all levels in this country. For years, politicians have been unwilling to lead this Nation out of the darkness of racial isolation and hatred. Those in the North as well as the South have found it easier to inflame the issue rather than to solve it. It has been easier to look for faults in someone else or in some other area of the country rather than to analyze our own failings.

We have allowed race to be pitted against race, region against region, and class against class. The result has been inevitable. Anger, distrust and suspicion infect the relationships of millions of Americans. Whites fear blacks and blacks distrust whites; southerners are bitter about the North, which continually castigates the South; and the lower middle class are encouraged to take out their frustrations on the poor, the young, and the black.

We cannot allow this situation to continue if this country is to survive. Millions of Americans know this and are searching for leadership from someone, somewhere. During the weeks ahead, a country that has found no leadership on the question of racial equality and questions the willingness of the Supreme Court to come to grips with this problem again as it did in 1954, will watch and listen to what we say and do. They will be guided by our views and will judge us by our actions.

Nothing would be more inspiring for this country in these days of divisiveness, petty bickering and halting leadership than to have the U.S. Senate and all its members, from North, South, East and West, thoughtfully and constructively debate the future course of our society without rancor, bitterness or vindictiveness. I hope we have reached the time when we can face the crisis before us as a single body, free of regional prejudice and willing to provide this Nation with the leadership it seeks and has despaired of finding.

I ask unanimous consent that the following exhibits be printed at this point in the RECORD:

Exhibit 1: Section-by-section analysis of Ribicoff amendment.

Exhibit 2: Census Bureau figures showing population changes in selected metropolitan areas.

Exhibit 3: HEW statistics on school integration.

Exhibit 4: Census Bureau statistics on employment in metropolitan areas together with explanatory letter of Bureau Director George H. Brown.

Exhibit 5: Questions and answers relating to amendment.

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

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS OF RIBICOFF AMENDMENT TO S. 1557

(Adds Title II to bill)

*Section 101:* Authorizes $1 billion appropriation for each of the two fiscal years ending June 30, 1974 and June 30, 1975 for the purpose of carrying out Title I of the Act.

*Section 202:* States that the purpose of Title II is to end minority group isolation in the Nation's public schools and to provide the financial assistance to accomplish that goal.

*Section 301:* Provides definitions of terms used throughout the Title. "Minority group isolation" is a situation where minority group children in a school constitute more than 50% of the average daily enrollment of that school. "Standard Metropolitan Statistical Area" or "SMS", as defined by the Office of Management and Budget, is the area in and around cities of 50,000 inhabitants or more.

*Section 401:* Requires each state to prepare and file an acceptable plan pursuant to which it will establish and supervise the operation of an SMSA agency, within each SMSA, to develop with local educational agencies a plan to reduce minority group isolation in their schools.

*Section 402* (generally): Sets forth the requirements of the plan to be prepared.

*Section 402(b):* The plan must insure that, no later than July 1, 1985, the percentage of minority group children enrolled in each school of the SMSA shall be at least half the percentage of minority group children enrolled in all schools in the SMSA.

*Section 402(c):* As appropriate in local circumstances the plan must use such techniques as redrawing school boundaries, creating unified districts, and establishing magnet schools and educational parks so as to end minority group isolation in all schools within the SMSA.

*Section 402(d):* Local committees of parents, teachers, and students representative of minority and majority groups and the geographical areas within the SMSA must be established to advise the local education agencies and SMSA agency in open consultation regarding the development of the plan and must report periodically to the Secretary on the extent of compliance with the requirements of this Title.

*Section 420(e):* Provides that parents of the children and representatives of the areas must be consulted and involved in the operation of the proposed programs.

*Section 420(f):* Substantial progress toward the goal must be demonstrated in each year of operation of the plan.

*Section 402(g):* Per pupil contributions of the State to any minority-group isolated school shall not be less than per pupil contributions to non-minority group isolated schools.

*Section 403:* Requires submission of the plan and approved by the Secretary no later than July 1, 1975.

*Section 404:* Allows the Secretary in extreme and unusual cases to exempt portions of an SMSA from the plan where necessary because of the size, shape or population distribution of an SMSA.

*Section 405:* Each SMSA agency must file an annual report setting forth the results achieved under the plan. The Secretary must assure the ready availability of the plan to the public and the local committees.

*Section 406:* The Secretary must review each plan and report for each SMSA agency annually and require revised plans where necessary.

*Section 407:* Provides that the District of Columbia SMSA shall include those parts of the metropolitan areas lying in Virginia and Maryland.

*Section 408:* Prohibits the formulation or administration of a plan in any way that will result in separation of minority group children within a school or a classroom.

*Section 501:* Provides Federal funds for each SMSA agency for development of the plan required by this title.

*Section 502: (generally):* Provides Federal financial assistance for implementation of an approved plan. No Federal funds are to be used to supplant funds, equipment, or services that are used to assist any private school. The Secretary is given power to file suit for restitution of any funds used for these purposes.

*Section 502(d):* Describes the purposes for which funds provided may be used including, among others, establishing and constructing magnet schools and educational parks, providing additional staff members, and the necessary counselling, retraining and guidance for those working with minority group children, furnishing transportation where necessary (provided that any burden of transportation shall fall equitably on both minority and majority group children) and expanding or altering facilities to accommodate students transferred.

*Section 502(e):* Prohibits the supplanting of State or local educational agency funds presently being expended.

*Section 601:* Any local educational agency in an SMSA refusing to cooperate in the formulation or implementation of a plan shall not be entitled to receive any Federal educational funds. Likewise, any State failing to participate in the preparation, submission, revsion or implementation of any plan required by the act and any State continuing to provide State funds to any noncooperating local educational agency shall not be entitled to receive Federal educational funds. The presence within an SMSA of a noncooperating local educational agency does not affect the eligibility for Federal funds of the remaining cooperating local educational agencies.

*Section 701:* Provides $25 million for each of two years for SMSA's to develop and promulgate the plans required.

*Sections 702 and 703:* Authorizes $2 billion a year for each of ten years to implement the plans developed pursuant to this title.

*Section 801:* Provides for expedited hearings by the Secretary for complaints concerning the enforcement or nonenforcement of provisions of this title. Review of the Secretary's final decision lies with the United States Court of Appeals for the District of Columbia Circuit.

*Section 901:* Repeals those provisions of law which would interfere with the operation of this title, particularly those forbidding the use of Federal funds to overcome racial imbalance.

EXHIBIT 2

POPULATION CHANGE FOR WHITE AND BLACK POPULATION IN SELECTED METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING—1960 TO 1970. (IN PERCENT OF TOTAL POPULATION. SMSA'S AS DEFINED IN 1970)

| SMSA, central city and ring | Percent of population white | | Percent of population black | |
|---|---|---|---|---|
| | 1960 | 1970 | 1960 | 1970 |
| NORTHERN CITIES | | | | |
| New York | 88.0 | 82.0 | 11.5 | 11.3 |
| Central city | 85.3 | 76.6 | 14.0 | 21.2 |
| Suburbs | 95.0 | 93.6 | 4.8 | 5.9 |
| Detroit, Mich | 84.9 | 81.4 | 14.9 | 18.0 |
| Central city | 70.8 | 55.5 | 28.9 | 43.7 |
| Suburbs | 96.2 | 96.0 | 3.7 | 3.6 |
| Chicago, Ill | 85.2 | 81.3 | 14.3 | 17.6 |
| Central city | 76.4 | 65.6 | 22.9 | 32.7 |
| Suburbs | 96.9 | 96.0 | 2.9 | 3.5 |
| Philadelphia, Pa | 84.3 | 81.9 | 15.5 | 17.5 |
| Central city | 73.2 | 65.6 | 26.4 | 33.6 |
| Suburbs | 93.8 | 92.9 | 6.1 | 6.6 |
| San Francisco-Oakland, Calif | 87.5 | 82.8 | 8.5 | 10.5 |
| San Francisco | 79.0 | 71.4 | 10.0 | 13.4 |
| Oakland | | 59.1 | 22.8 | 34.5 |
| Suburbs | 93.7 | 91.0 | 4.4 | 5.4 |
| Baltimore, Md | 78.3 | 75.8 | 21.4 | 23.7 |
| Central city | 65.1 | 53.0 | 34.7 | 46.4 |
| Suburbs | 92.8 | 93.5 | 7.0 | 6.0 |
| Washington, D.C | 75.5 | 74.3 | 23.9 | 24.6 |
| Central city | 45.6 | 27.6 | 53.9 | 71.1 |
| Suburbs | 93.3 | 91.0 | 6.3 | 7.9 |
| SOUTHERN CITIES | | | | |
| Atlanta, Ga | 77.2 | 77.4 | 22.8 | 22.3 |
| Central city | 61.8 | 48.5 | 38.3 | 51.3 |
| Suburbs | 91.3 | 93.6 | 8.5 | 6.2 |
| Houston, Tex | 80.3 | 79.9 | 19.5 | 19.3 |
| Central city | 76.9 | 73.3 | 22.9 | 25.7 |
| Suburbs | 86.9 | 90.7 | 12.9 | 8.8 |
| New Orleans, La | 69.1 | 68.6 | 30.6 | 31.0 |
| Central city | 62.6 | 54.5 | 37.2 | 45.0 |
| Suburbs | 83.9 | 87.2 | 15.9 | 12.5 |
| CONNECTICUT CITIES | | | | |
| Bridgeport, Conn | 94.7 | 92.0 | 5.2 | 7.4 |
| Central city | 90.0 | 82.7 | 9.8 | 16.3 |
| Suburb | 98.8 | 98.3 | 1.1 | 1.5 |
| Hartford, Conn | 94.6 | 91.9 | 5.2 | 7.6 |
| Central city | 84.5 | 70.8 | 15.4 | 27.9 |
| Suburb | 98.9 | 98.5 | 1.0 | 1.3 |
| New Haven, Conn | 92.3 | 87.7 | 7.5 | 11.6 |
| Central city | 85.1 | 72.6 | 14.5 | 26.3 |
| Suburb | 98.8 | 97.3 | 1.1 | 2.3 |
| Stamford, Conn | 94.8 | 92.2 | 5.0 | 7.3 |
| Central city | 91.8 | 87.0 | 8.0 | 12.3 |
| Suburb | 98.0 | 98.0 | 1.8 | 1.8 |
| Waterbury, Conn | 95.9 | 94.1 | 4.0 | 5.6 |
| Central city | 93.3 | 89.4 | 6.6 | 10.0 |
| Suburb | 99.6 | 99.2 | .4 | .7 |

Source: U.S. Census Bureau, U.S. Department of Commerce.

Note: Columns do not total 100 percent because nonwhite groups within the population other than Negros are not included.

EXHIBIT 3

NEGRO PUPILS IN ALL DISTRICTS*—FALL 1968, FALL 1970

[Number and percent of Negro pupils attending public elementary and secondary schools]

| Geographical area | Total pupils | Negro pupils | Negro pupils attending— 0 to 49.9 percent minority schools | | 80 to 100 percent minority schools | | 100 percent minority schools | |
|---|---|---|---|---|---|---|---|---|
| | | | Number | Percent | Number | Percent | Number | Percent |
| Continental U.S.: | | | | | | | | |
| 1968 | 43,353,568 | 6,282,173 | 1,467,291 | 23.4 | 4,274,461 | 68.0 | 2,493,398 | 39.7 |
| 1970 estimated | 44,774,679 | 6,723,950 | 2,206,521 | 32.8 | 3,378,231 | 50.2 | 1,076,033 | 16.0 |
| (1) 32 North and West: | | | | | | | | |
| 1968 | 28,579,766 | 2,703,056 | 746,030 | 27.6 | 1,550,440 | 57.4 | 332,408 | 12.3 |
| 1970 estimated | 29,162,896 | 2,865,059 | 792,442 | 27.7 | 1,645,508 | 57.4 | 341,354 | 11.9 |
| (2) 11 South: | | | | | | | | |
| 1968 | 11,043,485 | 2,942,960 | 540,692 | 18.4 | 2,317,850 | 78.8 | 2,000,486 | 68.0 |
| 1970 estimated | 11,738,916 | 2,187,684 | 1,215,089 | 38.1 | 1,328,137 | 41.7 | 587,172 | 18.4 |
| (3) 6 Border plus District of Columbia: | | | | | | | | |
| 1968 | 3,730,317 | 636,157 | 180,569 | 28.4 | 406,171 | 63.8 | 160,504 | 25.2 |
| 1970 estimated | 3,872,867 | 671,207 | 198,990 | 29.6 | 404,586 | 60.3 | 147,507 | 22.0 |

(1) Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.

(2) Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

(3) Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.

*Districts with fewer than 300 pupils are not included in the survey. 1970 figures are estimates based on latest available data and are subject to variation upon final compilation.

EXHIBIT 4

NUMBER OF EMPLOYED CIVILIANS 14 YEARS OLD AND OVER BY NONFARM OCCUPATION GROUPS AND RESIDENCE IN 1960 AND 1970

| Nonfarm occupation | Metropolitan areas | | | In central cities | | | Outside central cities | | | Nonmetropolitan areas | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 1960 | 2 1970 | Percent change | 1 1960 | 2 1970 | Percent change | 1 1960 | 2 1970 | Percent change | 1 1960 | 2 1970 | Percent change |
| MALE | | | | | | | | | | | | |
| Total | 27,520 | 31,910 | 16.0 | 14,333 | 14,049 | −2.0 | 13,187 | 17,861 | 35.4 | 12,356 | 14,474 | 17.1 |
| Professional and managerial | 6,522 | 9,873 | 51.4 | 3,151 | 3,760 | 19.3 | 3,371 | 6,113 | 81.3 | 2,600 | 3,915 | 50.6 |
| Clerical and sales | 4,604 | 5,045 | 9.6 | 2,487 | 2,360 | −5.1 | 2,117 | 2,684 | 26.8 | 1,491 | 1,532 | 2.7 |
| Craftsmen and foremen | 5,668 | 6,454 | 13.9 | 2,656 | 2,685 | 1.1 | 3,017 | 3,768 | 25.1 | 2,720 | 3,201 | 17.7 |
| Operatives | 5,524 | 6,066 | 9.8 | 2,918 | 2,852 | −2.1 | 2,606 | 3,208 | 23.1 | 3,099 | 3,596 | 16.0 |
| Private household workers | 29 | 42 | (3) | 16 | 13 | (3) | 13 | 28 | (3) | 23 | 20 | (3) |
| Other service workers | 1,879 | 2,325 | 23.7 | 1,177 | 1,291 | 9.9 | 702 | 1,031 | 46.9 | 721 | 920 | 27.6 |
| Nonfarm laborers | 1,802 | 2,106 | 16.9 | 770 | 1,078 | 8.9 | 812 | 1,028 | 26.6 | 1,166 | 1,290 | 10.6 |
| Occupation not reported | 1,492 | (4) | (5) | 938 | (4) | (5) | 554 | (4) | (5) | 536 | (4) | (5) |
| FEMALE | | | | | | | | | | | | |
| Total | 14,232 | 20,102 | 41.2 | 8,294 | 9,745 | 17.5 | 5,938 | 10,356 | 74.4 | 6,445 | 9,586 | 48.7 |
| Professional and managerial | 2,346 | 3,981 | 69.7 | 1,303 | 1,840 | 41.2 | 1,043 | 2,141 | 105.3 | 1,172 | 1,763 | 50.4 |
| Clerical and sales | 5,853 | 8,943 | 52.8 | 3,336 | 4,300 | 28.9 | 2,517 | 4,643 | 84.5 | 2,018 | 3,203 | 58.7 |
| Craftsmen and foremen | 184 | 224 | 21.7 | 105 | 114 | 8.6 | 79 | 109 | 38.0 | 75 | 103 | 37.3 |

Footnotes at end of table.

EXHIBIT 4—Continued

NUMBER OF EMPLOYED CIVILIANS 14 YEARS OLD AND OVER BY NONFARM OCCUPATION GROUPS AND RESIDENCE IN 1960 AND 1970—Continued

| Nonfarm occupation | Metropolitan areas | | | In central cities | | | Outside central cities | | | Nonmetropolitan areas | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | [1] 1960 | [2] 1970 | Percent change | [1] 1960 | [2] 1970 | Percent change | [1] 1960 | [2] 1970 | Percent change | [1] 1960 | [2] 1970 | Percent change |
| FEMALE—Continued | | | | | | | | | | | | |
| Operatives | 2,124 | 2,552 | 20.2 | 1,252 | 1,275 | 1.8 | 872 | 1,277 | 46.4 | 1,129 | 1,802 | 59.6 |
| Private household workers | 999 | 1,199 | 20.0 | 646 | 552 | −14.6 | 353 | 646 | 83.0 | 646 | 796 | 23.2 |
| Other service workers | 1,779 | 3,138 | 76.4 | 1,026 | 1,624 | 58.3 | 753 | 1,514 | 101.1 | 1,081 | 1,856 | 71.7 |
| Nonfarm laborers | 58 | 65 | [3] | 37 | 40 | [3] | 21 | 25 | [3] | 44 | 63 | [3] |
| Occupation not reported | 889 | [4] | [5] | 589 | [4] | [5] | 300 | [4] | [5] | 280 | [4] | [5] |

[1] 1960 census of population and housing.
[2] 1970 current population survey.
[3] Base less than 75,000.
[4] Occupations not reported were allocated.
[5] Not applicable.

Note on reliability of the data: These figures are estimates derived from a sample survey of households and, therefore, are subject to sampling variability. Moreover, as in all field surveys of income, the figures are subject to errors of response and nonreporting.

Source: Current population survey, Bureau of the Census.

U.S. DEPARTMENT OF COMMERCE,
*Washington, D.C., February 4, 1971.*

Hon. ABRAHAM A. RIBICOFF,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR RIBICOFF: In response to a telephone request from Mr. Bowler, we are forwarding two tables showing the number of employed civilians 14 years old and over in April 1960 and March 1970 and median earnings in income years 1959 and 1969 (in 1969 constant dollars) for all employed civilians 14 years old and over, by nonfarm occupation groups and by residence in metropolitan areas, in or outside of central cities in metropolitan areas, and nonmetropolitan areas. The data for 1960 (and 1959 earnings) were obtained from the Census of Population and Housing while the data for 1970 (and 1969 earnings) were obtained from the March Current Population Survey. Consequently, these data may not be shortly comparable.

All of these figures are estimates derived from a sample survey of households, and are subject to sampling variability. Moreover, as in all field surveys of income, the figures are subject to errors of response and nonreporting.

Please let us know if we can be of any further assistance.

Sincerely,

GEORGE H. BROWN,
*Director, Bureau of the Census.*

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EXHIBIT 5

QUESTIONS AND ANSWERS RELATING TO RIBICOFF AMENDMENT

Q. How does your amendment relate to the cases presently before the United States Supreme Court?

A. There is no way to predict how the Supreme Court will decide these cases. Even if the cases are used to attack de facto segregation, it will only be within individual school districts, not throughout metropolitan areas.

Q. Won't your amendment encourage migration outside SMSA's?

A. Almost 70% of the population already live within SMSA's. It would be difficult for large numbers of them to move far enough away to be beyond an SMSA and still within reach of their jobs. Moreover, the percentages of minority groups involved in integration are not large enough to generate the threat of white flight that presently exists within our central cities. Public opinion polls have demonstrated that most Americans support integration in their neighborhoods as long as it is within manageable proportions.

Q. Don't many black leaders today believe integration is irrelevant if not actually undesirable?

A. Yes. And a lot of whites could not be more pleased with that development. In many ways it is a result of the failure of the white community to do any more than talk about the importance of integration. Nonetheless, the majority of blacks in this country still seek and desire integration and the purpose of my bills for integrating housing as well as education is to provide them with that opportunity.

Q. Isn't your amendment just a thinly disguised busing proposal?

A. No. Busing is one technique which local districts in an SMSA might choose to employ, but there is no requirement that they do so. In many situations, substantial integration can be achieved with little or no significant transportation above that now being undertaken. Ultimately, no bill relying totally on busing will succeed. Only by integrating neighborhoods as we integrate our schools will we be able to end racial isolation in this country.

Q. Why was a ten-year period chosen for achieving school integration?

A. That is only to be a maximum period. Some districts can meet the requirements in a lesser period of time. However, it is important to look at this problem realistically and not naively expect that we can change patterns of housing and education on a metropolitan basis overnight or even in two years. If we can achieve the goals of my amendment within ten years, we will have made a major move away from the development of two separate societies.

Q. How and why did you choose a goal requiring each school in the metropolitan area to have a percentage of minority-group students that is at least one-half of the percentage of the minority-group school population in the metropolitan area as a whole?

A. As my amendment makes clear, the percentage requirements at the end of a ten year period are simply minimums. In most SMSA's the requirement will be between 10 and 15 percent of the school population and, therefore, will generally reflect the percentage of minority-group persons in the population as a whole.

Q. How will your amendment affect the growth and development of private schools?

A. It is hard to predict the impact of my amendment on the development of private schools. The percentage of blacks moving into suburban schools will be small enough, and over a long enough period of time, that few whites will feel so threatened that they will incur the large expense of placing their children in private schools.

Q. Your amendment says that no state which continues to provide state funds to a noncooperating local educational agency shall be entitled to receive federal educational funds. Does this mean that an entire state will lose federal funds if it continues to aid just one noncooperative agency? If so, do you believe that this will penalize more children than it will benefit?

A. I agree that it would be unwise to cut off all federal funds to all local school districts simply because one school district does not cooperate. My amendment specifically provides that cooperating local educational agencies are to continue to receive state and local funds even if there is a noncooperating educational agency in their SMSA. However, the states themselves, receive federal funds for state-wide activities as distinguished from federal funds channeled through the states to specific local educational agencies. These funds would be cut off if a state continued to provide state funds to a noncooperating local educational agency. The political realities are such that local pressures will generally result in state cutoffs of funds to noncooperating agencies rather than rejection of federal funding for state-wide programs.

Q. Nonetheless, won't many suburban school districts simply decide to do without federal aid rather than comply with the requirements of your amendment?

A. The amendment will also cut off federal educational funds for any state that continues to supply state funds to a noncooperating school district. Therefore, a suburban school district will have to do without both state and federal funds if it does not want to follow the requirements of this act. Not many will be able to do that.

Q. Won't there still be a possibility of all black central city schools?

A. Yes, but it is my hope that the development of new school construction and imaginative educational programs in the central city will alleviate much of this problem by attracting white students in the city. Moreover, the impetus behind much of the so-called "white flight" to the suburbs will fade away once it becomes clear that the racial situation is stabilizing and the suburbs are not a white sanctuary.

Q. What about the District of Columbia?

A. The District must receive separate treatment, since all of its suburbs are in other states. This is my education bill does.

Q. Aren't some metropolitan areas so large or irregularly shaped that difficulties will be encountered in developing a school plan?

A. The amendment gives the Secretary of HEW discretion to take such unusual factors into consideration.

Q. What about metropolitan areas that cross state lines?

A. My amendment provides that each portion of a metropolitan area within a state would be treated separately for purposes of the education act. This does not present a problem since in all cases there are blacks and whites on both sides of the state lines.

Q. If the focus is on large metropolitan areas what say will local residents have in the development of their school integration plan and its implementation?

A. My bill requires that any plan submitted for approval must provide for establishment of multiracial committees composed of local parents and students who are representative geographically and racially of the population for the SMSA as a whole. Open hearings must be held and full opportunity for discussion and exploration of the issues must be guaranteed. Provisions must be made for the continuing involvement of these committees during implementation of the plan. In addition, the bill requires the Secretary to assure that all plans and progress reports are made freely available to the public and to the multiracial committees in each SMSA.

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

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Minnesota. I wish to thank the Senator from Minnesota for his gracious personal comments. I wish to add that about 14 months ago there was a bitter debate on the floor of the Senate concerning the Stennis amendment.

I found myself opposed by the Senator from Minnesota. I never questioned his bona fides or the depths of his sincerity. Out of that debate came the Mondale committee, which has spent these past 14 months looking into the entire problem of a segregated society and what had to be done to bring about an integrated society.

The Senator from Minnesota zealously pursued this problem wherever the facts were taken. North and South, East and West. I know of no Member of this Congress who has devoted himself more to this great, soul-searching question than the Senator from Minnesota.

During the past 14 months I have talked with the Senator frequently. Members of my staff and his staff, men of great dedication and ability, have worked very closely together to try to develop a common ground and an understanding of this problem, all of them seeking the same objective.

I want to take this opportunity to commend the Senator from Minnesota for his intellectual honesty and his hard work in this very, very tough field. All of us are going to have to address ourselves to the question of racial isolation in the weeks ahead. If we do not solve this problem now in the Senate, a great amount of work will remain for all of us in the months and years in the future.

I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, let me say how deeply appreciative I am of those kind words. I think the debate concerning that measure 14 months ago may have set a course in motion which for the first time made the Congress look at the problem as it really is, not only through the creation of the Equal Education Committee, but in the new data that the Census bureau has developed, reported to the Senate by the Senator from Connecticut (Mr. RIBICOFF), which shows clearly, nationally, and tragically, the propositions of the problem. It is that problem to which the think it is a most courageous approach.

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries and have the doors closed in the galleries?

The PRESIDING OFFICER (Mr. ROTH). The galleries will be in order. Order will be maintained in the galleries.

Mr. MONDALE. It is a most courageous approach. The census data show the situation is getting far, far worse, not better. We are headed, indeed are far down the road, toward a separated America. That policy simply must be reversed. I am pleased to rise in support of the proposed amendment. I hope it will be adopted. I think the cause of equal education and a united country, a healthy country, requires its adoption. I am grateful to the Senator for his work and for this measure, and I am hopeful that our colleagues will see the necessity of this measure in the same light.

Might I make a reference to one table, appearing in the hearing Record beginning on page 742 and extending to page 785, for our colleagues? It is a table which shows estimated students in standard metropolitan statistical areas, which will permit our colleagues to see how this measure would work out, based on the 1968 statistical data directed at students.

Mr. RIBICOFF. Mr. President, I wonder at this point, because Senators will be reading the RECORD and the colloquy, if we cannot ask unanimous consent that the table referred to by the distinguished Senator from Minnesota be included in the RECORD.

Mr. MONDALE. I so ask, Mr. President.

The PRESIDING OFFICER. Is there objection?

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

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Alabama: | | | | | | | |
| Birmingham (291): | | | | | | | |
| Students | 166,189 | 0 | 63,258 | 0 | 0 | 62,258 | 102,931 |
| Horiz. percent | 100.0 | 0 | 38.1 | 0 | 0 | 38.1 | 61.9 |
| Teachers | 6,482 | 0 | 2,296 | 0 | 0 | 2,296 | 4,186 |
| Horiz. percent | 100.0 | 0 | 35.4 | 0 | 0 | 35.4 | 64.6 |
| Gadsden (31): | | | | | | | |
| Students | 15,211 | 0 | 3,965 | 0 | 0 | 3,965 | 11,246 |
| Horiz. percent | 100.0 | 0 | 26.1 | 0 | 0 | 26.1 | 73.9 |
| Teachers | 603 | 0 | 157 | 0 | 0 | 157 | 446 |
| Horiz. percent | 100.0 | 0 | 26.0 | 0 | 0 | 26.0 | 74.0 |
| Huntsville (53): | | | | | | | |
| Students | 21,954 | 0 | 5,760 | 3 | 5 | 5,768 | 16,186 |
| Horiz. percent | 100.0 | 0 | 26.2 | 0 | 0 | 26.3 | 73.7 |
| Teachers | 926 | 0 | 234 | 0 | 0 | 234 | 692 |
| Horiz. percent | 100.0 | 0 | 25.3 | 0 | 0 | 25.3 | 74.7 |
| Mobile (119): | | | | | | | |
| Students | 90,107 | 0 | 35,309 | 0 | 0 | 35,309 | 54,798 |
| Horiz. percent | 100.0 | 0 | 39.2 | 0 | 0 | 39.2 | 60.8 |
| Teachers | 3,149 | 0 | 1,233 | 0 | 0 | 1,233 | 1,916 |
| Horiz. percent | 100.0 | 0 | 39.2 | 0 | 0 | 39.2 | 60.8 |
| Montgomery (68): | | | | | | | |
| Students | 47,723 | 0 | 19,700 | 0 | 0 | 19,700 | 28,023 |
| Horiz. percent | 100.0 | 0 | 41.3 | 0 | 0 | 41.3 | 58.7 |
| Teachers | 1,688 | 0 | 657 | 0 | 0 | 657 | 1,031 |
| Horiz. percent | 100.0 | 0 | 38.9 | 0 | 0 | 38.9 | 61.1 |
| Tuscaloosa (48): | | | | | | | |
| Students | 25,400 | 0 | 9,230 | 0 | 0 | 9,230 | 16,170 |
| Horiz. percent | 100.0 | 0 | 36.3 | 0 | 0 | 36.3 | 63.7 |
| Teachers | 959 | 0 | 306 | 0 | 0 | 306 | 653 |
| Horiz. percent | 100.0 | 0 | 31.9 | 0 | 0 | 31.9 | 68.1 |
| Total (631): | | | | | | | |
| Students | 377,727 | 0 | 143,494 | 3 | 5 | 143,502 | 234,225 |
| Horiz. percent | 100.0 | 0 | 38.0 | 0 | 0 | 38.0 | 62.0 |
| Teachers | 14,230 | 0 | 5,103 | 0 | 0 | 5,103 | 9,127 |
| Horiz. percent | 100.0 | 0 | 35.9 | 0 | 0 | 35.9 | 64.1 |
| Arizona: | | | | | | | |
| Phoenix (225): | | | | | | | |
| Students | 199,102 | 2,518 | 10,298 | 985 | 29,094 | 42,895 | 156,206 |
| Horiz. percent | 100.0 | 1.3 | 5.2 | 0.5 | 14.6 | 21.5 | 78.5 |
| Teachers | 7,908 | 10 | 206 | 37 | 224 | 476 | 7,432 |
| Horiz. percent | 100.0 | 0.1 | 2.6 | 0.5 | 2.8 | 6.0 | 94.0 |
| Tucson (103): | | | | | | | |
| Students | 73,991 | 974 | 2,874 | 435 | 18,412 | 22,694 | 51,297 |
| Horiz. percent | 100.0 | 1.3 | 3.9 | 0.6 | 24.9 | 30.7 | 69.3 |
| Teachers | 2,955 | 6 | 50 | 15 | 105 | 177 | 2,779 |
| Horiz. percent | 100.0 | 0.2 | 1.7 | 0.5 | 3.6 | 6.0 | 94.0 |
| Total (328): | | | | | | | |
| Students | 273,093 | 3,492 | 13,172 | 1,420 | 47,506 | 65,590 | 207,503 |
| Horiz. percentage | 100.0 | 1.3 | 4.8 | 0.5 | 17.4 | 24.0 | 76.0 |
| Teachers | 10,864 | 16 | 256 | 52 | 329 | 653 | 10,211 |
| Horiz. percentage | 100.0 | 0.1 | 2.4 | 0.5 | 3.0 | 6.0 | 94.0 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | Negr. | Orienta. | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Arkansas: | | | | | | | |
| Fort Smith (46): | | | | | | | |
| Students | 21,498 | 8 | 1,292 | 0 | 7 | 1,307 | 20,191 |
| Horiz. percentage | 100.0 | 0 | 6.0 | 0 | 0 | 6.1 | 93.9 |
| Teachers | 830 | 1 | 24 | 0 | 0 | 25 | 805 |
| Horiz. percentage | 100.0 | 2 | 2.9 | 0 | 0 | 3.1 | 96.9 |
| Little Rock-N. Little Rock (118): | | | | | | | |
| Students | 66,818 | 28 | 17,418 | 33 | 87 | 17,566 | 49,252 |
| Horiz. percentage | 100.0 | 0 | 26.1 | 0 | 1 | 26.3 | 73.7 |
| Teachers | 2,600 | 0 | 566 | 2 | 3 | 571 | 2,029 |
| Horiz. percentage | 100.0 | 0 | 21.8 | 1 | 1 | 22.0 | 78.0 |
| Pine Bluff (43): | | | | | | | |
| Students | 20,158 | 6 | 10,003 | 17 | 27 | 10,083 | 10,075 |
| Horiz. percent | 100.0 | 0 | 49.8 | 1 | 1 | 50.0 | 50.0 |
| Teachers | 825 | 0 | 344 | 0 | 4 | 348 | 477 |
| Horiz. Percent | 100.0 | 0 | 41.7 | 0 | 5 | 42.2 | 57.8 |
| Total (241): | | | | | | | |
| Students | 128,214 | 46 | 38,165 | 56 | 142 | 38,409 | 89,805 |
| Horiz. percent | 100.0 | 0 | 29.8 | 0 | 1 | 30.0 | 70.04 |
| Teachers | 5,017 | 1 | 1,243 | 2 | 7 | 1,253 | 3,760 |
| Horiz. percent | 100.0 | 0 | 24.8 | 0 | 1 | 25.0 | 75.0 |
| California: | | | | | | | |
| Anaheim-Santa Ana-Garden Grove (448): | | | | | | | |
| Students | 350,503 | 633 | 2,686 | 4,154 | 32,310 | 39,783 | 310,720 |
| Horiz. percent | 100.0 | 2 | 8 | 1.2 | 9.2 | 11.4 | 88.6 |
| Teachers | 12,864 | 16 | 42 | 165 | 235 | 458 | 12,406 |
| Horiz. percent | 100.0 | 1 | 3 | 1.3 | 1.8 | 3.6 | 96.4 |
| Bakersfield (158): | | | | | | | |
| Students | 93,238 | 253 | 6,764 | 855 | 16,959 | 24,831 | 68,407 |
| Horiz. percent | 100.0 | 0.3 | 7.3 | 0.9 | 18.2 | 26.6 | 73.4 |
| Teachers | 3,572 | 3 | 71 | 26 | 70 | 170 | 3,402 |
| Horiz. percent | 100.0 | 0.1 | 2.0 | 0.7 | 2.0 | 4.8 | 95.2 |
| Fresno (197): | | | | | | | |
| Students | 113,505 | 467 | 6,569 | 2,224 | 33,164 | 42,424 | 71,080 |
| Horiz. percent | 100.0 | 0.4 | 5.8 | 2.0 | 29.2 | 37.4 | 62.6 |
| Teachers | 4,358 | 3 | 40 | 56 | 126 | 226 | 4,132 |
| Horiz. percent | 100.0 | 0.1 | 0.9 | 1.3 | 2.9 | 5.2 | 94.8 |
| Los Angeles-Long Beach (1,671): | | | | | | | |
| Students | 1,478,782 | 3,131 | 204,517 | 35,159 | 251,340 | 494,147 | 984,635 |
| Horiz. percent | 100.0 | 0.2 | 13.8 | 2.4 | 17.0 | 33.4 | 66.6 |
| Teachers | 54,807 | 39 | 4,884 | 1,631 | 1,386 | 7,941 | 46,866 |
| Horiz. percent | 100.0 | 0.1 | 8.9 | 3.0 | 2.5 | 14.5 | 85.5 |
| Oxnard-Ventura (153): | | | | | | | |
| Students | 99,636 | 127 | 1,915 | 1,158 | 17,232 | 20,432 | 79,204 |
| Horiz. percent | 100.0 | 0.1 | 1.9 | 1.2 | 17.3 | 20.5 | 79.5 |
| Teachers | 3,825 | 7 | 37 | 33 | 74 | 151 | 3,675 |
| Horiz. percent | 100.0 | 0.2 | 1.0 | 0.9 | 1.9 | 3.9 | 96.1 |
| Sacramento (354): | | | | | | | |
| Students | 204,906 | 501 | 12,875 | 6,341 | 17,337 | 37,054 | 167,042 |
| Horiz. percent | 100.0 | 0.2 | 6.3 | 3.1 | 8.5 | 18.2 | 81.8 |
| Teachers | 7,863 | 17 | 231 | 137 | 105 | 490 | 7,373 |
| Horiz. percent | 100.0 | 0.2 | 2.9 | 1.7 | 1.3 | 6.2 | 93.8 |
| Salinas-Monterey (74): | | | | | | | |
| Students | 49,223 | 132 | 3,323 | 2,169 | 10,853 | 16,477 | 32,746 |
| Horiz. percent | 100.0 | 0.3 | 6.8 | 4.4 | 22.0 | 33.5 | 66.5 |
| Teachers | 1,955 | 1 | 66 | 33 | 52 | 152 | 1,803 |
| Horiz. percent | 100.0 | 0.1 | 3.4 | 1.7 | 2.7 | 7.8 | 92.2 |
| San Bernardino-Riverside-Ontario (432): | | | | | | | |
| Students | 271,513 | 1,216 | 14,769 | 1,515 | 47,915 | 65,415 | 206,098 |
| Horiz. percent | 100.0 | 0.4 | 5.4 | 0.6 | 17.6 | 24.1 | 75.9 |
| Teachers | 10,330 | 27 | 315 | 55 | 272 | 669 | 9,661 |
| Horiz. percent | 100.0 | 0.3 | 3.0 | 0.5 | 2.6 | 6.5 | 93.5 |
| San Diego (388): | | | | | | | |
| Students | 285,970 | 764 | 16,532 | 5,410 | 32,731 | 55,436 | 230,534 |
| Horiz. percent | 100.0 | 0.3 | 5.8 | 1.9 | 11.4 | 19.4 | 80.6 |
| Teachers | 10,679 | 9 | 225 | 63 | 200 | 496 | 10,183 |
| Horiz. percent | 100.0 | 0.1 | 2.1 | 0.6 | 1.9 | 4.6 | 95.4 |
| San Francisco-Oakland (1,029): | | | | | | | |
| Students | 642,233 | 1,491 | 93,148 | 31,051 | 55,423 | 181,113 | 261,120 |
| Horiz. percent | 100.0 | 0.2 | 14.5 | 4.8 | 8.6 | 28.2 | 71.8 |
| Teachers | 26,646 | 19 | 1,465 | 805 | 475 | 2,765 | 23,881 |
| Horiz. percent | 100.0 | 0.1 | 5.5 | 3.0 | 1.8 | 10.4 | 89.6 |
| San Jose (401): | | | | | | | |
| Students | 268,034 | 551 | 4,656 | 6,405 | 43,061 | 54,672 | 213,362 |
| Horiz. percentage | 100.0 | 0.2 | 1.7 | 2.4 | 16.1 | 20.4 | 79.6 |
| Teachers | 10,393 | 13 | 126 | 337 | 225 | 701 | 9,692 |
| Horiz. percentage | 100.0 | 0.1 | 1.2 | 3.2 | 2.2 | 6.7 | 93.3 |
| Santa Barbara (102): | | | | | | | |
| Students | 60,676 | 148 | 1,786 | 1,116 | 10,918 | 13,969 | 46,707 |
| Horiz. percentage | 100.0 | 0.2 | 2.9 | 1.8 | 18.0 | 23.0 | 77.0 |
| Teachers | 2,465 | 2 | 34 | 20 | 60 | 117 | 2,348 |
| Horiz. percentage | 100.0 | 0.1 | 1.4 | 0.8 | 2.4 | 4.7 | 95.3 |
| Stockton (121): | | | | | | | |
| Students | 66,060 | 103 | 4,699 | 2,100 | 10,640 | 17,542 | 48,517 |
| Horiz. percentage | 100.0 | 0.2 | 7.1 | 3.2 | 16.1 | 26.6 | 73.4 |
| Teachers | 2,619 | 4 | 75 | 64 | 73 | 216 | 2,404 |
| Horiz. percentage | 100.0 | 0.1 | 2.9 | 2.5 | 2.8 | 8.2 | 91.8 |
| Vallejo-Napa (105) | | | | | | | |
| Students | 57,775 | 125 | 5,051 | 1,573 | 4,192 | 10,940 | 46,834 |
| Horiz. percent | 100.0 | 0.2 | 8.7 | 2.7 | 7.3 | 18.9 | 81.1 |
| Teachers | 2,354 | 3 | 65 | 25 | 36 | 129 | 2,225 |
| Horiz. percent | 100.0 | 0.1 | 2.8 | 1.1 | 1.5 | 5.5 | 94.5 |
| Total (5,633): | | | | | | | |
| Students | 4,041,244 | 9,643 | 379,289 | 101,228 | 584,074 | 1,074,235 | 2,967,009 |
| Horiz. percent | 100.0 | 0.2 | 9.4 | 2.5 | 14.5 | 26.6 | 73.4 |
| Teachers | 154,730 | 164 | 7,677 | 3,450 | 3,390 | 14,681 | 140,049 |
| Horiz. percent | 100.0 | 0.1 | 5.0 | 2.2 | 2.2 | 9.5 | 90.5 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Colorado: | | | | | | | |
| Colorado Springs (84): | | | | | | | |
| Students | 53,800 | 69 | 2,793 | 568 | 4,422 | 7,851 | 45,949 |
| Horiz. percent | 100.0 | 0.1 | 5.2 | 1.1 | 8.2 | 14.6 | 85.4 |
| Teachers | 2,176 | 1 | 27 | 5 | 31 | 64 | 2,111 |
| Horiz. percent | 100.0 | 0 | 1.2 | 0.2 | 1.4 | 3.0 | 97.0 |
| Denver (435): | | | | | | | |
| Students | 285,500 | 586 | 14,222 | 1,713 | 29,172 | 45,692 | 239,808 |
| Horiz. percent | 100.0 | 0.2 | 5.0 | 0.6 | 10.2 | 16.0 | 84.0 |
| Teachers | 11,795 | 12 | 353 | 75 | 176 | 616 | 11,180 |
| Horiz. percent | 100.0 | 0.1 | 3.0 | 0.6 | 1.5 | 5.2 | 94.8 |
| Pueblo (58): | | | | | | | |
| Students | 30,249 | 25 | 598 | 59 | 10,931 | 11,613 | 18,636 |
| Horiz. percent | 100.0 | 0.1 | 2.0 | 0.2 | 36.1 | 38.4 | 61.6 |
| Teachers | 1,266 | 0 | 5 | 4 | 71 | 79 | 1,187 |
| Horiz. percent | 100.0 | 0 | 0.4 | 0.2 | 5.6 | 6.2 | 93.8 |
| Total (577): | | | | | | | |
| Students | 369,549 | 679 | 17,613 | 2,339 | 44,525 | 66,156 | 304,393 |
| Horiz. percent | 100.0 | 0.2 | 4.8 | 0.6 | 12.0 | 17.6 | 82.4 |
| Teachers | 15,237 | 13 | 385 | 83 | 278 | 759 | 14,478 |
| Horiz. percent | 100.0 | 0.1 | 2.5 | 0.5 | 1.8 | 5.0 | 95.0 |
| Connecticut: | | | | | | | |
| Bridgeport (254): | | | | | | | |
| Students | 161,640 | 56 | 16,199 | 369 | 5,973 | 22,597 | 139,043 |
| Horiz. percent | 100.0 | 0 | 10.0 | 0.2 | 3.7 | 14.0 | 86.0 |
| Teachers | 7,384 | 2 | 215 | 10 | 20 | 248 | 7,136 |
| Horiz. percent | 100.0 | 0 | 2.9 | 0.1 | 0.3 | 3.4 | 96.6 |
| Hartford (378): | | | | | | | |
| Students | 219,295 | 61 | 16,991 | 301 | 5,369 | 22,722 | 196,573 |
| Horiz. percent | 100.0 | 0 | 7.7 | 0.1 | 2.4 | 10.4 | 89.6 |
| Teachers | 10,101 | 2 | 277 | 6 | 15 | 300 | 9,801 |
| Horiz. percent | 100.0 | 0 | 2.7 | 0.1 | 0.1 | 3.0 | 7.0 |
| New Haven (272): | | | | | | | |
| Students | 150,491 | 66 | 16,646 | 264 | 3,579 | 20,555 | 129,936 |
| Horiz. percent | 100.0 | 0 | 11.1 | 0.2 | 2.4 | 13.7 | 86.3 |
| Teachers | 6,881 | 0 | 271 | 4 | 11 | 286 | 6,595 |
| Horiz. percent | 100.0 | 0 | 3.9 | 0.1 | 0.2 | 4.2 | 95.8 |
| New London-Groton-Norwich (100): | | | | | | | |
| Students | 50,830 | 12 | 2,249 | 163 | 431 | 2,856 | 47,975 |
| Horiz. percent | 100.0 | 0 | 4.4 | 0.3 | 0.8 | 5.6 | 94.4 |
| Teachers | 2,224 | 0 | 57 | 3 | 3 | 62 | 2,162 |
| Horiz. percent | 100.0 | 0 | 2.5 | 0.1 | 0.1 | 2.8 | 97.2 |
| Waterbury (74): | | | | | | | |
| Students | 34,263 | 1 | 370 | 23 | 45 | 440 | 33,824 |
| Horiz. percent | 100.0 | .0 | 1.1 | 0.1 | 0.1 | 1.3 | 98.7 |
| Teachers | 1,586 | 0 | 10 | 1 | 0 | 11 | 1,575 |
| Horiz. percent | 100.0 | .0 | 0.6 | .0 | .0 | 0.7 | 99.3 |
| Total (1,077): | | | | | | | |
| Students | 616,519 | 196 | 52,456 | 1,120 | 15,397 | 69,170 | 547,349 |
| Horiz. percent | 100.0 | .0 | 8.5 | 0.2 | 2.5 | 11.2 | 88.8 |
| Teachers | 28,176 | 4 | 830 | 24 | 49 | 907 | 27,270 |
| Horiz. percent | 100.0 | .0 | 2.9 | 0.1 | 0.2 | 3.2 | 96.8 |
| Delaware: | | | | | | | |
| Wilmington, Del., New Jersey, Maryland (162): | | | | | | | |
| Students | 107,137 | 17 | 16,696 | 100 | 395 | 17,207 | 89,930 |
| Horiz. percent | 100.0 | .0 | 15.6 | 0.1 | 0.4 | 16.1 | 83.9 |
| Teachers | 4,642 | 0 | 532 | 5 | 5 | 542 | 4,100 |
| Horiz. percent | 100.0 | .0 | 11.5 | 0.1 | 0.1 | 11.7 | 88.3 |
| Total (107): | | | | | | | |
| Students | 82,615 | 9 | 14,069 | 65 | 162 | 14,305 | 68,310 |
| Horiz. percent | 100.0 | 0 | 17.0 | 0.1 | 0.2 | 17.3 | 82.7 |
| Teachers | 3,580 | 0 | 479 | 3 | 3 | 485 | 3,095 |
| Horiz. percent | 100.0 | 0 | 13.4 | 0.1 | 0.1 | 13.6 | 86.4 |
| District of Columbia: | | | | | | | |
| Washington, D.C., Maryland, Virginia (854): | | | | | | | |
| Students | 619,873 | 231 | 179,384 | 2,902 | 3,543 | 186,060 | 433,814 |
| Horiz. percent | 100.0 | 0 | 28.9 | 0.5 | 0.6 | 30.0 | 70.0 |
| Teachers | 25,562 | 17 | 6,268 | 29 | 52 | 6,367 | 19,195 |
| Horiz. percent | 100.0 | 0.1 | 24.5 | 0.1 | 0.2 | 24.9 | 75.1 |
| Total (188): | | | | | | | |
| Students | 148,725 | 31 | 139,006 | 746 | 662 | 140,445 | 8,280 |
| Horiz. percent | 100.0 | 0 | 93.5 | 0.5 | 0.4 | 94.4 | 5.6 |
| Teachers | 6,224 | 8 | 4,828 | 11 | 21 | 4,868 | 1,356 |
| Horiz. percent | 100.0 | 0.1 | 77.6 | 0.2 | 0.3 | 78.2 | 21.8 |
| Florida: | | | | | | | |
| Fort Lauderdale-Hollywood (107): | | | | | | | |
| Students | 103,003 | 114 | 24,516 | 64 | 823 | 25,517 | 77,486 |
| Horiz. percent | 100.0 | 0.1 | 23.8 | 0.1 | 0.8 | 24.8 | 75.2 |
| Teachers | 4,235 | 2 | 830 | 0 | 7 | 839 | 3,396 |
| Horiz. percent | 100.0 | 0 | 19.6 | 0 | 0.2 | 19.8 | 80.2 |
| Jacksonville (135): | | | | | | | |
| Students | 122,637 | 0 | 34,638 | 0 | 0 | 34,638 | 87,999 |
| Horiz. percent | 100.0 | 0 | 28.2 | 0 | 0 | 28.2 | 71.8 |
| Teachers | 4,835 | 0 | 1,328 | 0 | 0 | 1,328 | 3,507 |
| Horiz. percent | 100.0 | 0 | 27.5 | 0 | 0 | 27.5 | 72.5 |
| Miami (215): | | | | | | | |
| Students | 232,465 | 436 | 56,518 | 426 | 39,487 | 96,867 | 135,598 |
| Horiz. percent | 100.0 | 0.2 | 24.3 | 0.2 | 17.0 | 41.7 | 58.3 |
| Teachers | 8,694 | 3 | 1,621 | 9 | 317 | 1,950 | 6,744 |
| Horiz. percent | 100.0 | 0 | 18.6 | 0.1 | 3.6 | 22.4 | 77.6 |
| Orlando (121): | | | | | | | |
| Students | 93,733 | 20 | 17,251 | 14 | 57 | 17,342 | 76,391 |
| Horiz. percent | 100.0 | 0 | 18.4 | 0 | 0.1 | 18.5 | 81.5 |
| Teachers | 3,859 | 0 | 723 | 0 | 4 | 727 | 3,132 |
| Horiz. percent | 100.0 | 0 | 18.7 | 0 | 0.1 | 18.8 | 81.2 |
| Pensacola (95): | | | | | | | |
| Students | 55,704 | 69 | 13,670 | 122 | 78 | 13,939 | 41,765 |
| Horiz. percent | 100.0 | 0.1 | 24.5 | 0.2 | 0.1 | 25.0 | 75.0 |
| Teachers | 2,145 | 1 | 422 | 4 | 2 | 429 | 1,716 |
| Horiz. percent | 100.0 | 0 | 19.7 | 0.2 | 0.1 | 20.0 | 80.0 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA; and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Florida—Continued | | | | | | | |
| Tallahassee (26): | | | | | | | |
| Students | 19,906 | 5 | 7,183 | 30 | 27 | 7,245 | 12,661 |
| Horiz. percent | 100.0 | 0 | 36.1 | 0.2 | 0.1 | 36.4 | 63.6 |
| Teachers | 851 | 0 | 243 | 3 | 0 | 246 | 605 |
| Horiz. percent | 100.0 | 0 | 28.6 | 0.4 | 0 | 28.9 | 71.1 |
| Tampa-St. Petersburg (240): | | | | | | | |
| Students | 179,451 | 247 | 31,940 | 236 | 7,103 | 39,526 | 139,925 |
| Horiz. percent | 100.0 | 0.1 | 17.8 | 0.1 | 4.0 | 22.0 | 78.0 |
| Teachers | 7,015 | 5 | 991 | 5 | 397 | 1,398 | 5,617 |
| Horiz. percent | 100.0 | 0.1 | 14.1 | 0.1 | 5.7 | 19.9 | 80.1 |
| West Palm Beach (91): | | | | | | | |
| Students | 61,715 | 5 | 17,158 | 27 | 1,553 | 18,743 | 42,972 |
| Horiz. percent | 100.0 | 0 | 27.8 | 0 | 2.5 | 30.4 | 69.6 |
| Teachers | 2,755 | 0 | 651 | 1 | 18 | 670 | 2,085 |
| Horiz. percent | 100.0 | 0 | 23.6 | 0 | 0.7 | 24.3 | 75.7 |
| Total (1,030): | | | | | | | |
| Students | 868,614 | 896 | 202,874 | 919 | 49,128 | 253,817 | 614,797 |
| Horiz. percent | 100.0 | 0.1 | 23.4 | 0.1 | 5.7 | 29.2 | 70.8 |
| Teachers | 34,389 | 11 | 6,809 | 22 | 745 | 7,587 | 26,802 |
| Horiz. percent | 100.0 | 0 | 19.8 | 0.1 | 2.2 | 22.1 | 77.9 |
| Georgia: | | | | | | | |
| Albany (35): | | | | | | | |
| Students | 22,771 | 1 | 8,942 | 8 | 3 | 8,954 | 13,817 |
| Horiz. percent | 100.0 | 0 | 39.3 | 0 | 0 | 39.3 | 60.7 |
| Teachers | 874 | 0 | 338 | 1 | 0 | 339 | 535 |
| Horiz. percent | 100.0 | 0 | 38.7 | 0.1 | 0 | 38.8 | 61.2 |
| Atlanta (460): | | | | | | | |
| Students | 312,434 | 61 | 83,643 | 205 | 194 | 84,103 | 228,331 |
| Horiz. percent | 100.0 | 0 | 26.8 | 0.1 | 0.1 | 26.9 | 73.1 |
| Teachers | 12,334 | 3 | 3,066 | 2 | 7 | 3,078 | 9,256 |
| Horiz. percent | 100.0 | 0 | 24.9 | 0 | 0.1 | 25.0 | 75.0 |
| Augusta, Ga.-South Carolina (106): | | | | | | | |
| Students | 60,428 | 43 | 19,975 | 259 | 262 | 20,539 | 39,889 |
| Horiz. percent | 100.0 | 0.1 | 33.1 | 0.4 | 0.4 | 34.0 | 66.0 |
| Teachers | 2,432 | 1 | 746 | 1 | 0 | 748 | 1,684 |
| Horiz. percent | 100.0 | 0 | 30.7 | 0 | 0 | 30.8 | 69.2 |
| Columbus, Ga.-Alabama (88): | | | | | | | |
| Students | 53,516 | 12 | 18,789 | 91 | 184 | 19,076 | 34,440 |
| Horiz. percent | 100.0 | 0 | 35.1 | 0.2 | 0.3 | 35.6 | 64.4 |
| Teachers | 1,986 | 0 | 646 | 0 | 1 | 647 | 1,339 |
| Horiz. percent | 100.0 | 0 | 32.5 | 0 | 0.1 | 32.6 | 67.4 |
| Macon (82): | | | | | | | |
| Students | 51,589 | 0 | 18,098 | 13 | 5 | 18,116 | 33,473 |
| Horiz. percent | 100.0 | 0 | 35.1 | 0 | 0 | 35.1 | 64.9 |
| Teachers | 2,253 | 0 | 736 | 0 | 0 | 736 | 1,517 |
| Horiz. percent | 100.0 | 0 | 32.7 | 0 | 0 | 32.7 | 67.3 |
| Savannah (63): | | | | | | | |
| Students | 42,416 | 0 | 17,449 | 0 | 0 | 17,449 | 24,967 |
| Horiz. percent | 100.0 | 0 | 41.1 | 0 | 0 | 41.1 | 58.9 |
| Teachers | 1,751 | 0 | 675 | 0 | 0 | 675 | 1,076 |
| Horiz. percent | 100.0 | 0 | 38.5 | 0 | 0 | 38.5 | 61.5 |
| Total (785): | | | | | | | |
| Students | 519,050 | 117 | 153,953 | 557 | 645 | 155,292 | 363,758 |
| Horiz. percentage | 100.0 | 0 | 29.7 | 0.1 | 0.1 | 29.9 | 70.1 |
| Teachers | 20,705 | 4 | 5,776 | 4 | 9 | 5,793 | 14,912 |
| Horiz. percentage | 100.0 | 0 | 27.9 | 0 | 0 | 28.0 | 72.0 |
| Idaho: | | | | | | | |
| Boise City (44): | | | | | | | |
| Students | 24,932 | 81 | 71 | 96 | 83 | 331 | 24,592 |
| Horiz. percentage | 100.0 | 0.3 | 0.3 | 0.4 | 0.3 | 1.3 | 98.7 |
| Teachers | 967 | 0 | 0 | 0 | 0 | 0 | 967 |
| Horiz. percentage | 100.0 | 0 | 0 | 0 | 0 | 0 | 100 |
| Total (44): | | | | | | | |
| Students | 24,923 | 81 | 71 | 96 | 83 | 331 | 24,592 |
| Horiz. percentage | 100.0 | 0.3 | 0.3 | 0.4 | 0.3 | 1.3 | 98.7 |
| Teachers | 967 | 0 | 0 | 0 | 0 | 0 | 967 |
| Horiz. percentage | 100.0 | 0 | 0 | 0 | 0 | 0 | 100.0 |
| Illinois: | | | | | | | |
| Bloomington-Normal (98): | | | | | | | |
| Students | 32,492 | 10 | 515 | 12 | 127 | 664 | 31,828 |
| Horiz. percent | 100.0 | 0 | 1.6 | 0 | 0.4 | 2.0 | 98.0 |
| Teachers | 1,513 | 0 | 7 | 0 | 3 | 10 | 1,503 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0 | 0.2 | 0.7 | 99.3 |
| Champaign-Urbana (60): | | | | | | | |
| Students | 29,740 | 7 | 2,882 | 213 | 79 | 3,181 | 26,559 |
| Horiz. percent | 100.0 | 0 | 9.7 | 0.7 | 0.3 | 10.7 | 89.3 |
| Teachers | 1,347 | 0 | 58 | 2 | 0 | 60 | 1,287 |
| Horiz. percent | 100.0 | 0 | 4.3 | 0.1 | 0 | 4.5 | 95.5 |
| Chicago (1,889): | | | | | | | |
| Students | 1,361,698 | 1,337 | 347,219 | 5,956 | 63,417 | 417,929 | 943,769 |
| Horiz. percent | 100.0 | 0.1 | 25.5 | 0.4 | 4.7 | 30.7 | 69.3 |
| Teachers | 51,930 | 10 | 7,741 | 152 | 164 | 8,067 | 43,863 |
| Horiz. percent | 100.0 | 0 | 14.9 | 0.3 | 0.3 | 15.5 | 84.5 |
| Decatur (74): | | | | | | | |
| Students | 30,421 | 5 | 3,360 | 8 | 6 | 3,379 | 27,041 |
| Horiz. percent | 100.0 | 0 | 11.0 | 0 | 0 | 11.1 | 88.9 |
| Teachers | 1,189 | 0 | 26 | 0 | 0 | 26 | 1,163 |
| Horiz. percent | 100.0 | 0 | 2.2 | 0 | 0 | 2.2 | 97.8 |
| Peoria (147): | | | | | | | |
| Students | 72,792 | 22 | 4,739 | 63 | 201 | 5,026 | 67,766 |
| Horiz. percent | 100.0 | 0 | 6.5 | 0.1 | 0.3 | 6.9 | 93.1 |
| Teachers | 3,045 | 0 | 53 | 7 | 4 | 64 | 2,981 |
| Horiz. percent | 100.0 | 0 | 1.7 | 0.2 | 0.1 | 2.1 | 97.9 |
| Rockford (104): | | | | | | | |
| Students | 62,473 | 58 | 4,733 | 52 | 387 | 5,230 | 57,243 |
| Horiz. percent | 100.0 | .1 | 7.6 | 0.1 | 0.6 | 8.4 | 91.6 |
| Teachers | 2,625 | 0 | 60 | 0 | 1 | 61 | 2,564 |
| Horiz. percent | 100.0 | 0 | 2.3 | 0 | 0 | 2.3 | 97.7 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| **Illinois—Continued** | | | | | | | |
| Springfield (72): | | | | | | | |
| Students | 31,637 | 21 | 2,287 | 33 | 52 | 2,393 | 29,243 |
| Horiz. percent | 100.0 | 0.1 | 7.2 | 0.1 | 0.2 | 7.6 | 92.4 |
| Teachers | 1,301 | 0 | 25 | 0 | 4 | 29 | 1,271 |
| Horiz. percent | 100.0 | 0 | 1.9 | 0 | 0.3 | 2.3 | 97.7 |
| Total (2,783): | | | | | | | |
| Students | 1,790,359 | 1,545 | 393,543 | 6,556 | 65,968 | 467,613 | 1,322,746 |
| Horiz. percent | 100.0 | 0.1 | 22.0 | 0.4 | 3.7 | 26.1 | 73.9 |
| Teachers | 69,704 | 10 | 8,766 | 162 | 190 | 9,129 | 60,575 |
| Horiz. percent | 100.0 | 0 | 12.6 | 0.2 | 0.3 | 13.1 | 86.9 |
| **Indiana:** | | | | | | | |
| Anderson (60): | | | | | | | |
| Students | 33,871 | 8 | 2,220 | 9 | 128 | 2,365 | 31,505 |
| Horiz. percent | 100.0 | 0 | 6.6 | 0 | 0.4 | 7.0 | 93.0 |
| Teachers | 1,292 | 0 | 10 | 0 | 0 | 10 | 1,282 |
| Horiz. percent | 100.0 | 0 | 0.8 | 0 | 0 | 0.8 | 99.2 |
| Evansville, Ind.-Kentucky (73): | | | | | | | |
| Students | 49,159 | 10 | 3,795 | 17 | 29 | 3,851 | 45,308 |
| Horiz. percent | 100.0 | 0 | 7.7 | 0 | 0.1 | 7.8 | 92.2 |
| Teachers | 1,880 | 0 | 75 | 0 | 0 | 75 | 1,805 |
| Horiz. percent | 100.0 | 0 | 4.0 | 0 | 0 | 4.0 | 96.0 |
| Fort Wayne (89): | | | | | | | |
| Students | 59,600 | 22 | 5,841 | 72 | 449 | 6,384 | 53,216 |
| Horiz. percent | 100.0 | 0 | 9.8 | 0.1 | 0.8 | 10.7 | 89.3 |
| Teachers | 2,343 | 0 | 66 | 1 | 1 | 68 | 2,275 |
| Horiz. percent | 100.0 | 0 | 2.8 | 0 | 0 | 2.9 | 97.1 |
| Gary-Hammond-East Chicago (204): | | | | | | | |
| Students | 157,334 | 165 | 36,315 | 168 | 9,413 | 46,060 | 111,274 |
| Horiz. percent | 100.0 | 0.1 | 23.1 | 0.1 | 6.0 | 29.3 | 70.7 |
| Teachers | 6,278 | 2 | 1,325 | 15 | 54 | 1,397 | 4,881 |
| Horiz. percent | 100.0 | 0 | 21.1 | 0.2 | 0.9 | 22.2 | 77.8 |
| Indianapolis (355): | | | | | | | |
| Students | 249,386 | 32 | 38,331 | 75 | 200 | 38,638 | 210,748 |
| Horiz. percent | 100.0 | 0 | 15.4 | 0 | 0.1 | 15.5 | 84.5 |
| Teachers | 9,685 | 3 | 921 | 4 | 5 | 934 | 8,751 |
| Horiz. percent | 100.0 | 0 | 9.5 | 0 | 0.1 | 9.6 | 90.4 |
| Lafayette-West Lafayette (37): | | | | | | | |
| Students | 20,678 | 12 | 186 | 57 | 98 | 353 | 20,325 |
| Horiz. percent | 100.0 | 0.1 | 0.9 | 0.3 | 0.5 | 1.7 | 98.3 |
| Teachers | 865 | 0 | 3 | 0 | 1 | 4 | 861 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0 | 0.1 | 0.5 | 99 |
| Muncie (56): | | | | | | | |
| Students | 33,487 | 0 | 2,077 | 10 | 25 | 2,112 | 31,375 |
| Horiz. percent | 100.0 | 0 | 6.2 | 0 | 0.1 | 6.3 | 93.7 |
| Teachers | 1,336 | 0 | 19 | 1 | 0 | 20 | 1,316 |
| Horiz. percent | 100.0 | 0 | 1.4 | 0.1 | 0 | 1.5 | 98.5 |
| South Bend (94): | | | | | | | |
| Students | 59,403 | 36 | 5,979 | 74 | 331 | 6,420 | 52,983 |
| Horiz. percent | 100.0 | 0.1 | 10.1 | 0.1 | 0.6 | 10.8 | 89.3 |
| Teachers | 2,352 | 0 | 92 | 4 | 2 | 98 | 2,254 |
| Horiz. percent | 100.0 | 0 | 3.9 | 0.2 | 0.1 | 4.2 | 95.8 |
| Terre Haute (80): | | | | | | | |
| Students | 35,394 | 8 | 1,396 | 27 | 7 | 1,438 | 33,957 |
| Horiz. percent | 100.0 | 0 | 3.9 | 0.1 | 0 | 4.1 | 95.9 |
| Teachers | 1,478 | 0 | 22 | 1 | 0 | 23 | 1,455 |
| Horiz. percent | 100.0 | 0 | 1.5 | 0.1 | 0 | 1.6 | 98.4 |
| Total (1,123): | | | | | | | |
| Students | 735,165 | 300 | 96,890 | 536 | 10,818 | 108,634 | 626,531 |
| Horiz. percent | 100.0 | 0 | 13.2 | 0.1 | 1.5 | 14.8 | 85.2 |
| Teachers | 28,927 | 5 | 2,530 | 27 | 65 | 2,627 | 26,299 |
| Horiz. percent | 100.0 | 0 | 8.7 | 0.1 | 0.2 | 9.1 | 90.9 |
| **Iowa:** | | | | | | | |
| Cedar Rapids (75): | | | | | | | |
| Students | 38,513 | 25 | 506 | 28 | 43 | 601 | 37,912 |
| Horiz. percent | 100.0 | 0.1 | 1.3 | 0.1 | 0.1 | 1.6 | 98.4 |
| Teachers | 1,755 | 1 | 2 | 1 | 4 | 8 | 1,747 |
| Horiz. percent | 100.0 | 0.1 | 0.1 | 0.1 | 0.2 | 0.5 | 99.5 |
| Davenport-Rock Island-Moline, Iowa-Illinois (147): | | | | | | | |
| Students | 81,614 | 42 | 3,777 | 66 | 1,750 | 5,635 | 75,979 |
| Horiz. percent | 100.0 | 0.1 | 4.6 | 0.1 | 2.1 | 6.9 | 93.1 |
| Teachers | 3,382 | 0 | 40 | 1 | 10 | 51 | 3,331 |
| Horiz. percent | 100.0 | 0 | 1.2 | 0 | 0.3 | 1.5 | 98.5 |
| Des Moines (131): | | | | | | | |
| Students | 66,036 | 56 | 3,677 | 105 | 454 | 4,291 | 61,745 |
| Horiz. percent | 100.0 | 0.1 | 5.6 | 0.2 | 0.7 | 6.5 | 93.5 |
| Teachers | 2,670 | 3 | 38 | 3 | 3 | 47 | 2,623 |
| Horiz. percent | 100.0 | 0.1 | 1.4 | 0.1 | 0.1 | 1.8 | 98.2 |
| Dubuque (28): | | | | | | | |
| Students | 12,882 | 4 | 6 | 13 | 5 | 28 | 12,854 |
| Horiz. percent | 100.0 | 0 | 0 | 0.1 | 0 | 0.2 | 99.8 |
| Teachers | 496 | 0 | 0 | 1 | 0 | 1 | 495 |
| Horiz. percent | 100.0 | 0 | 0 | 0.2 | 0 | 0.2 | 99.8 |
| Sioux City, Iowa-Nebraska (53): | | | | | | | |
| Students | 22,655 | 151 | 311 | 19 | 48 | 529 | 22,126 |
| Horiz. percent | 100.0 | 0.7 | 1.4 | 0.1 | 0.2 | 2.3 | 97.7 |
| Teachers | 978 | 0 | 2 | 0 | 0 | 2 | 976 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0 | 0 | 0.2 | 99.8 |
| Waterloo (59): | | | | | | | |
| Students | 30,082 | 46 | 3,338 | 48 | 29 | 2,461 | 27,621 |
| Horiz. percent | 100.0 | 0.2 | 7.8 | 0.2 | 0.1 | 8.2 | 91.8 |
| Teachers | 1,210 | 0 | 17 | 4 | 2 | 23 | 1,187 |
| Horiz. percent | 100.0 | 0 | 1.4 | 0.3 | 0.2 | 1.9 | 98.1 |
| Total (442): | | | | | | | |
| Students | 223,043 | 314 | 8,285 | 240 | 1,176 | 10,015 | 213,388 |
| Horiz. percent | 100.0 | 0.1 | 3.7 | 0.1 | 0.5 | 4.5 | 95.5 |
| Teachers | 9,383 | 4 | 72 | 11 | 12 | 99 | 9,283 |
| Horiz. percent | 100.0 | 0 | 0.8 | 0.1 | 0.1 | 1.1 | 98.9 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Kansas: | | | | | | | |
| Topeka (82): | | | | | | | |
| Students | 35,730 | 146 | 3,326 | 98 | 1,150 | 4,720 | 31,010 |
| Horiz. percent | 100.0 | 0.4 | 9.3 | 0.3 | 3.2 | 13.2 | 86.8 |
| Teachers | 1,475 | 0 | 38 | 1 | 5 | 44 | 1,431 |
| Horiz. percent | 100.0 | 0 | 2.6 | 0.1 | 0.3 | 3.0 | 97.0 |
| Wichita (205): | | | | | | | |
| Students | 98,211 | 374 | 9,174 | 204 | 1,199 | 10,951 | 87,260 |
| Horiz. percent | 100.0 | 0.4 | 9.3 | 0.2 | 1.2 | 11.2 | 88.8 |
| Teachers | 4,225 | 8 | 176 | 1 | 19 | 204 | 4,022 |
| Horiz. percent | 100.0 | 0.2 | 4.2 | 0 | 0.4 | 4.8 | 95.2 |
| Total (463): | | | | | | | |
| Students | 230,733 | 573 | 23,286 | 401 | 3,721 | 27,980 | 202,753 |
| Horiz. percent | 100.0 | 0.2 | 10.1 | 0.2 | 1.6 | 12.1 | 87.9 |
| Teachers | 9,654 | 9 | 490 | 6 | 29 | 534 | 9,120 |
| Horiz. percent | 100.0 | 0.1 | 5.1 | 0.1 | 0.3 | 5.5 | 94.5 |
| Kentucky: | | | | | | | |
| Lexington (47): | | | | | | | |
| Students | 34,867 | 10 | 5,969 | 31 | 21 | 6,031 | 28,836 |
| Horiz. percent | 100.0 | 0 | 17.1 | 0.1 | 0.1 | 17.3 | 82.7 |
| Teachers | 1,404 | 0 | 132 | 0 | 1 | 133 | 1,271 |
| Horiz. percent | 100.0 | 0 | 9.4 | 0 | 0.1 | 9.5 | 90.5 |
| Louisville, Ky.-Indiana (212): | | | | | | | |
| Students | 174,487 | 31 | 30,289 | 102 | 82 | 30,504 | 143,983 |
| Horiz. percent | 100.0 | 0 | 17.4 | 0.1 | 0 | 17.5 | 82.5 |
| Teachers | 6,784 | 1 | 755 | 2 | 0 | 758 | 6,026 |
| Horiz. percent | 100.0 | 0 | 11.1 | 0 | 0 | 11.2 | 88.8 |
| Total (314): | | | | | | | |
| Students | 240,258 | 34 | 36,906 | 109 | 90 | 37,139 | 203,119 |
| Horiz. percent | 100.0 | 0 | 15.4 | 0 | 0 | 15.5 | 84.5 |
| Teachers | 9,344 | 1 | 921 | 2 | 1 | 925 | 8,419 |
| Horiz. percent | 100.0 | 0 | 9.9 | 0 | 0 | 9.9 | 90.1 |
| Louisiana: | | | | | | | |
| Baton Rouge (101): | | | | | | | |
| Students | 63,725 | 39 | 23,751 | 40 | 123 | 23,953 | 39,772 |
| Horiz. percent | 100.0 | 0.1 | 37.3 | 0.1 | 0.2 | 37.6 | 62.4 |
| Teachers | 2,535 | 0 | 820 | 0 | 0 | 820 | 1,715 |
| Horiz. percent | 100.0 | 0 | 32.3 | 0 | 0 | 32.3 | 67.7 |
| Lafayette (35): | | | | | | | |
| Students | 27,295 | 0 | 6,984 | 0 | 0 | 6,984 | 20,311 |
| Horiz. percent | 100.0 | 0 | 25.6 | 0 | 0 | 25.6 | 74.4 |
| Teachers | 1,043 | 0 | 245 | 0 | 0 | 245 | 798 |
| Horiz. percent | 100.0 | 0 | 23.5 | 0 | 0 | 23.5 | 76.5 |
| Lake Charles (73): | | | | | | | |
| Students | 39,043 | 0 | 9,934 | 0 | 0 | 9,934 | 29,109 |
| Horiz. percent | 100.0 | 0 | 25.4 | 0 | 0 | 25.4 | 74.6 |
| Teachers | 1,552 | 0 | 359 | 0 | 0 | 359 | 1,193 |
| Horiz. percent | 100.0 | 0 | 23.1 | 0 | 0 | 23.1 | 76.9 |
| Monroe (57): | | | | | | | |
| Students | 29,115 | 1 | 10,256 | 7 | 7 | 10,271 | 18,844 |
| Horiz. percent | 100.0 | 0 | 35.2 | 0 | 0 | 35.3 | 64.7 |
| Teachers | 1,165 | 0 | 412 | 0 | 0 | 412 | 753 |
| Horiz. percent | 100.0 | 0 | 35.4 | 0 | 0 | 35.4 | 64.6 |
| New Orleans (248): | | | | | | | |
| Students | 198,167 | 111 | 92,004 | 183 | 1,463 | 93,761 | 104,406 |
| Horiz. percent | 100.0 | 0.1 | 46.4 | 0.1 | 0.7 | 47.3 | 52.7 |
| Teachers | 7,777 | 0 | 2,925 | 4 | 10 | 2,939 | 4,838 |
| Horiz. percent | 100.0 | 0 | 37.6 | .1 | .1 | 37.8 | 62.2 |
| Shreveport (101): | | | | | | | |
| Students | 78,700 | 37 | 30,697 | 103 | 291 | 31,128 | 47,572 |
| Horiz. percent | 100.0 | 0 | 39.0 | .1 | .4 | 39.6 | 60.4 |
| Teachers | 3,148 | 0 | 1,258 | 3 | 1 | 1,262 | 1,886 |
| Horiz. percent | 100.0 | 0 | 40.0 | .1 | 0 | 40.1 | 59.9 |
| Total (615): | | | | | | | |
| Students | 436,045 | 188 | 173,626 | 333 | 1,884 | 176,031 | 260,014 |
| Horiz. percent | 100.0 | 0 | 39.8 | .1 | 0.4 | 40.4 | 59.6 |
| Teachers | 17,220 | 0 | 6,019 | 7 | 11 | 6,037 | 11,183 |
| Horiz. percent | 100.0 | 0 | 34.0 | 0 | .1 | 35.1 | 64.9 |
| Maine: | | | | | | | |
| Lewiston, Auburn (63): | | | | | | | |
| Students | 21,181 | 4 | 24 | 1 | 4 | 33 | 21,148 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0 | 0 | 0.2 | 99.8 |
| Teachers | 841 | 0 | 0 | 0 | 1 | 1 | 839 |
| Horiz. percent | 100.0 | 0 | 0 | 0 | 0.2 | 0.2 | 99.8 |
| Portland (118): | | | | | | | |
| Students | 40,358 | 6 | 183 | 36 | 31 | 257 | 40,101 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0.1 | 0.1 | 0.6 | 99.4 |
| Teachers | 1,759 | 0 | 1 | 1 | 1 | 2 | 1,757 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0 | 0.1 | 0.1 | 99.9 |
| Total (181): | | | | | | | |
| Students | 61,539 | 10 | 208 | 37 | 35 | 290 | 61,249 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0.1 | 0.1 | 0.5 | 99.5 |
| Teachers | 2,600 | 0 | 1 | 0 | 2 | 4 | 2,596 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0 | 0.1 | 0.1 | 99.6 |
| Maryland: | | | | | | | |
| Baltimore (543): | | | | | | | |
| Students | 438,530 | 78 | 143,062 | 338 | 319 | 143,797 | 294,733 |
| Horiz. percent | 100.0 | .0 | 32.6 | 0.1 | 0.1 | 32.8 | 67.2 |
| Teachers | 17,145 | 2 | 4,591 | 9 | 4 | 4,606 | 12,539 |
| Horiz. percent | 100.0 | .0 | 26.8 | 0.1 | 0 | 26.9 | 73.1 |
| Total (952): | | | | | | | |
| Students | 718,934 | 161 | 171,002 | 1,577 | 2,019 | 174,759 | 544,17 |
| Horiz. percent | 100.0 | .0 | 23.8 | 0.2 | 0.3 | 24.3 | 75.7 |
| Teachers | 28,340 | 6 | 5,670 | 19 | 17 | 5,712 | 22,628 |
| Horiz. percent | 100.0 | .0 | 20.0 | 0.1 | 0.1 | 20.2 | 79.8 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Massachusetts: | | | | | | | |
| Boston (1,271): | | | | | | | |
| Students | 642,558 | 157 | 32,388 | 3,215 | 4,577 | 40,337 | 602,221 |
| Horiz. percent | 100.0 | .0 | 5.0 | 0.5 | 0.7 | 6.3 | 93.7 |
| Teachers | 28,537 | 1 | 337 | 22 | 18 | 378 | 28,159 |
| Horiz. percent | 100.0 | .0 | 1.2 | 0.1 | 0.1 | 1.3 | 98.7 |
| Brockton (154): | | | | | | | |
| Students | 77,687 | 40 | 1,569 | 149 | 887 | 2,645 | 75,042 |
| Horiz. percent | 100.0 | 0.1 | 2.0 | 0.2 | 1.1 | 3.4 | 96.6 |
| Teachers | 3,452 | 1 | 23 | 3 | 9 | 36 | 3,415 |
| Horiz. percent | 100.0 | 0 | 0.7 | 0.1 | 0.3 | 1.1 | 98.9 |
| Fall River, Mass.-R.I. (30): | | | | | | | |
| Students | 13,462 | 20 | 962 | 96 | 78 | 1,156 | 12,306 |
| Horiz. percent | 100.0 | 0.1 | 7.1 | 0.7 | 0.6 | 8.6 | 91.4 |
| Teachers | 666 | 0 | 10 | 1 | 2 | 13 | 653 |
| Horiz. percent | 100.0 | 0 | 1.5 | 0.2 | 0.3 | 2.0 | 98.0 |
| Lawrence-Haverhill, Mass.-N.H. (56): | | | | | | | |
| Students | 27,042 | 13 | 329 | 56 | 66 | 465 | 26,578 |
| Horiz. percent | 100.0 | 0 | 1.2 | 0.2 | 0.2 | 1.7 | 98.3 |
| Teachers | 1,196 | 0 | 1 | 0 | 4 | 5 | 1,191 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0 | 0.3 | 0.4 | 99.6 |
| New Bedford (198): | | | | | | | |
| Students | 78,170 | 13 | 2,676 | 144 | 430 | 3,264 | 74,905 |
| Horiz. percent | 100.0 | 0 | 3.4 | 0.2 | 0.6 | 4.2 | 95.8 |
| Teachers | 3,442 | 1 | 24 | 3 | 6 | 34 | 3,408 |
| Horiz. percent | 100.0 | 0 | 0.7 | 1 | 0.2 | 1.0 | 99.0 |
| Pittsfield (74): | | | | | | | |
| Students | 30,910 | 24 | 494 | 44 | 40 | 601 | 30,308 |
| Horiz. percent | 100.0 | 0.1 | 1.6 | 0.1 | 0.1 | 1.9 | 98.1 |
| Teachers | 1,452 | 0 | 7 | 3 | 0 | 10 | 1,441 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0.2 | 0 | 0.7 | 99.3 |
| Springfield-Chicopee-Holyoke, Mass.-Conn. (247): | | | | | | | |
| Students | 119,807 | 36 | 7,222 | 176 | 1,734 | 9,168 | 110,639 |
| Horiz. percent | 100.0 | 0 | 6.0 | 0.1 | 1.4 | 7.7 | 92.3 |
| Teachers | 5,084 | 1 | 89 | 2 | 6 | 98 | 4,968 |
| Horiz. percent | 100.0 | 0 | 1.8 | 0 | 0.1 | 1.9 | 98.1 |
| Worcester (295): | | | | | | | |
| Students | 119,983 | 81 | 1,353 | 223 | 561 | 2,218 | 117,765 |
| Horiz. percent | 100.0 | 0.1 | 1.1 | 0.2 | 0.5 | 1.8 | 98.2 |
| Teachers | 5,548 | 0 | 30 | 2 | 3 | 35 | 5,513 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0 | 0.1 | 0.6 | 99.4 |
| Total (2,239): | | | | | | | |
| Students | 1,069,115 | 351 | 45,701 | 3,951 | 8,229 | 58,233 | 1,010,882 |
| Horiz. percent | 100.0 | 0 | 4.3 | 0.4 | 0.8 | 5.4 | 94.6 |
| Teachers | 47,515 | 4 | 510 | 36 | 42 | 592 | 46,923 |
| Horiz. percent | 100.0 | 0 | 1.1 | 0.1 | 0.1 | 1.2 | 98.8 |
| Michigan | | | | | | | |
| Ann Arbor (83): | | | | | | | |
| Students | 44,853 | 50 | 4,440 | 265 | 276 | 5,031 | 39,822 |
| Horiz. percent | 100.0 | 0.1 | 9.9 | 0.6 | 0.6 | 11.2 | 88.8 |
| Teachers | 1,992 | 1 | 95 | 7 | 5 | 108 | 1,884 |
| Horiz. percent | 100.0 | 0.1 | 4.8 | 0.4 | 0.3 | 5.4 | 94.6 |
| Bay City (54): | | | | | | | |
| Students | 25,783 | 56 | 249 | 16 | 691 | 1,012 | 24,771 |
| Horiz. percent | 100.0 | 0.2 | 1.0 | 0.1 | 2.7 | 3.9 | 96.1 |
| Teachers | 923 | 0 | 2 | 0 | 3 | 5 | 918 |
| Horiz. percent | 100.0 | 0 | .2 | 0 | 0.3 | 0.5 | 99.5 |
| Detroit (1,286): | | | | | | | |
| Students | 960,389 | 1,029 | 204,734 | 2,172 | 8,129 | 216,064 | 744,325 |
| Horiz. percent | 100.0 | 0.1 | 21.3 | 0.2 | 0.8 | 22.5 | 77.5 |
| Teachers | 36,437 | 32 | 4,944 | 71 | 88 | 5,135 | 31,302 |
| Horiz. percent | 100.0 | 0.1 | 13.6 | 0.2 | 0.2 | 14.1 | 85.9 |
| Flint (205): | | | | | | | |
| Students | 128,853 | 134 | 19,002 | 105 | 1,325 | 20,566 | 108,287 |
| Horiz. percent | 100.0 | 0.1 | 14.7 | 0.1 | 1.0 | 16.0 | 84.0 |
| Teachers | 4,873 | 0 | 418 | 6 | 8 | 432 | 4,441 |
| Horiz. percent | 100.0 | 0 | 8.6 | 0.1 | 0.2 | 8.9 | 91.1 |
| Grand Rapids (270): | | | | | | | |
| Students | 118,918 | 278 | 7,573 | 174 | 1,727 | 9,752 | 109,166 |
| Horiz. percent | 100.0 | 0.2 | 6.4 | 0.1 | 1.5 | 8.2 | 91.8 |
| Teachers | 4,792 | 1 | 114 | 9 | 5 | 129 | 4,663 |
| Horiz. percent | 100.0 | 0 | 2.4 | 0.2 | 0.1 | 2.7 | 97.3 |
| Jackson (67): | | | | | | | |
| Students | 34,193 | 54 | 1,949 | 17 | 245 | 2,265 | 31,928 |
| Horiz. percent | 100.0 | 0.2 | 5.7 | 0 | 0.7 | 6.6 | 93.4 |
| Teachers | 1,339 | 1 | 30 | 0 | 5 | 36 | 1,303 |
| Horiz. percent | 100.0 | 0.1 | 2.2 | 0 | 0.4 | 2.7 | 97.3 |
| Kalamazoo (90): | | | | | | | |
| Students | 44,711 | 106 | 2,941 | 121 | 218 | 3,386 | 41,325 |
| Horiz. percent | 100.0 | 0.2 | 6.6 | 0.3 | 0.5 | 7.6 | 92.4 |
| Teachers | 1,835 | 0 | 43 | 3 | 0 | 46 | 1,789 |
| Horiz. percent | 100.0 | 0 | 2.3 | 0.2 | 0 | 2.5 | 97.5 |
| Lansing (185): | | | | | | | |
| Students | 88,047 | 158 | 3,690 | 199 | 2,292 | 6,339 | 81,708 |
| Horiz. percent | 100.0 | 0.2 | 4.2 | 0.2 | 2.6 | 7.2 | 92.8 |
| Teachers | 3,619 | 1 | 66 | 9 | 2 | 78 | 3,541 |
| Horiz. percent | 100.0 | .0 | 1.8 | 0.2 | 0.1 | 2.2 | 97.8 |
| Muskegon-Muskegon Heights (82): | | | | | | | |
| Students | 42,446 | 159 | 5,540 | 47 | 559 | 6,305 | 36,141 |
| Horiz. percent | 100.0 | 0.4 | 13.1 | 0.1 | 1.3 | 14.9 | 85.1 |
| Teachers | 1,750 | 0 | 79 | 3 | 2 | 84 | 1,666 |
| Horiz. percent | 100.0 | .0 | 4.5 | 0.2 | 0.1 | 4.8 | 95.2 |
| Saginaw (103): | | | | | | | |
| Students | 52,202 | 58 | 9,084 | 57 | 2,647 | 11,846 | 40,356 |
| Horiz. percent | 100.0 | 0.1 | 17.4 | 0.1 | 5.1 | 22.7 | 77.3 |
| Teachers | 2,011 | 0 | 157 | 0 | 8 | 165 | 1,846 |
| Horiz. percent | 100.0 | .0 | 7.8 | .0 | 0.4 | 8.2 | 91.8 |
| Total (2,476): | | | | | | | |
| Students | 1,567,858 | 2,102 | 259,879 | 3,186 | 18,555 | 283,722 | 1,284,136 |
| Horiz | 100.0 | 0.1 | 16.6 | 0.2 | 1.2 | 18.1 | 81.9 |
| Teachers | 60,006 | 37 | 5,954 | 109 | 129 | 6,229 | 54,371 |
| Horiz | 100.0 | 0.1 | 9.8 | 0.2 | 0.2 | 10.3 | 89.7 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Minnesota: | | | | | | | |
| Duluth Superior (146): | | | | | | | |
| Students | 66,143 | 678 | 303 | 89 | 40 | 1,110 | 65,033 |
| Horiz. percent | 100.0 | 1.0 | 0.5 | 0.1 | 0.1 | 1.7 | 98.3 |
| Teachers | 2,722 | 3 | 4 | 1 | 0 | 8 | 2,714 |
| Horiz. percent | 100.0 | 0.1 | .1 | 0 | 0 | 0.3 | 99.7 |
| Minneapolis-St. Paul (537): | | | | | | | |
| Students | 405,073 | 2,234 | 8,570 | 1,109 | 2,286 | 14,199 | 390,874 |
| Horiz. percent | 100.0 | 0.6 | 2.1 | 0.3 | 0.6 | 3.5 | 96.5 |
| Teachers | 16,298 | 5 | 144 | 41 | 23 | 2.4 | 16,084 |
| Horiz. percent | 100.0 | 0 | 0.9 | 0.3 | 0.1 | 1.3 | 98.7 |
| Total (684): | | | | | | | |
| Students | 473,935 | 2,834 | 8,864 | 1,204 | 2,489 | 15,392 | 458,542 |
| Horiz. percent | 100.0 | 0.6 | 1.9 | 0.3 | 0.5 | 3.2 | 96.8 |
| Teachers | 19,149 | 8 | 147 | 42 | 23 | 221 | 18,928 |
| Horiz. percent | 100.0 | 0 | 0.8 | 0.2 | 0.1 | 1.2 | 98.8 |
| Mississippi: | | | | | | | |
| Biloxi-Gulfport (56): | | | | | | | |
| Students | 31,264 | 16 | 6,974 | 47 | 93 | 7,130 | 24,134 |
| Horiz. percent | 100.0 | 0.1 | 22.3 | 0.3 | 0.3 | 22.8 | 77.2 |
| Teachers | 1,243 | 0 | 241 | 1 | 2 | 244 | 999 |
| Horiz. percent | 100.0 | 0 | 19.4 | 0.1 | 0.2 | 19.6 | 80.4 |
| Jackson (89): | | | | | | | |
| Students | 62,567 | 24 | 28,303 | 20 | 27 | 28,374 | 34,193 |
| Horiz. percent | 100.0 | 0 | 45.2 | 0 | 0 | 45.3 | 54.7 |
| Teachers | 2,443 | 0 | 1,001 | 0 | 1 | 1,002 | 1,144 |
| Horiz. percent | 100.0 | 0 | 41.0 | 0 | 0 | 41.0 | 59.0 |
| Total (145): | | | | | | | |
| Students | 93,831 | 40 | 35,277 | 67 | 120 | 35,504 | 58,327 |
| Horiz. percent | 100.0 | 0 | 37.6 | 0.1 | 0.1 | 37.8 | 62.2 |
| Teachers | 3,686 | 0 | 1,242 | 1 | 3 | 1,246 | 2,440 |
| Horiz. percent | 100.0 | 0 | 33.7 | 0 | 0.1 | 33.8 | 66.2 |
| Missouri: | | | | | | | |
| Kansas City, Mo.-Kansas (462): | | | | | | | |
| Students | 292,571 | 103 | 46,049 | 246 | 1,767 | 48,164 | 244,406 |
| Horiz. percent | 100.0 | 0 | 15.7 | 0.1 | 0.6 | 16.5 | 83.5 |
| Teachers | 11,455 | 3 | 1,172 | 8 | 8 | 1,191 | 10,264 |
| Horiz. percent | 100.0 | 0 | 10.2 | 0.1 | 0.1 | 10.4 | 89.6 |
| St. Joseph (32): | | | | | | | |
| Students | 16,786 | 0 | 642 | 0 | 40 | 682 | 16,104 |
| Horiz. percent | 100.0 | 0 | 3.8 | 0 | 0.2 | 4.1 | 95.9 |
| Teachers | 647 | 0 | 14 | 0 | 0 | 14 | 633 |
| Horiz. percent | 100.0 | 0 | 2.2 | 0 | 0 | 2.2 | 97.8 |
| St. Louis, Mo.-Ill. (803): | | | | | | | |
| Students | 490,763 | 192 | 109,334 | 676 | 939 | 111,141 | 379,622 |
| Horiz. percent | 100.0 | 0 | 22.3 | 0.1 | 0.2 | 22.6 | 77.4 |
| Teachers | 19,185 | 6 | 3,14 | 30 | 35 | 3,213 | 15,972 |
| Horiz. percent | 100.0 | 0 | 16.4 | 0.2 | 0.2 | 16.7 | 83.3 |
| Springfield (69): | | | | | | | |
| Students | 32,703 | 16 | 589 | 49 | 27 | 681 | 32,022 |
| Horiz. percent | 100.0 | 0 | 1.8 | 0.1 | 0.1 | 2.1 | 97.9 |
| Teachers | 1,286 | 0 | 10 | 1 | 2 | 13 | 1,273 |
| Horiz. percent | 100.0 | 0 | .8 | 0.1 | 0.2 | 1.0 | 99.0 |
| Total (952): | | | | | | | |
| Students | 616,403 | 198 | 120,537 | 694 | 979 | 122,408 | 493,995 |
| Horiz. percent | 100.0 | 0 | 19.6 | 0.1 | 0.2 | 19.9 | 80.1 |
| Teachers | 23,876 | 8 | 3,293 | 34 | 36 | 3,371 | 20,505 |
| Horiz. percent | 100.0 | 0 | 13.8 | 0.1 | 0.1 | 14.1 | 85.9 |
| Nebraska: | | | | | | | |
| Omaha, Nebr.Iowa (51): | | | | | | | |
| Students | 21,100 | 13 | 187 | 4 | 123 | 327 | 20,773 |
| Horiz. percent | 100.0 | 0.1 | 0.9 | 0 | 0.6 | 1.5 | 98.5 |
| Teachers | 901 | 0 | 2 | 1 | 2 | 5 | 896 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0.1 | 0.2 | 0.6 | 99.4 |
| Total | | | | | | | |
| New Hampshire: | | | | | | | |
| Manchester (129): | | | | | | | |
| Students | 53,309 | 7 | 160 | 76 | 63 | 307 | 53,003 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0.1 | 0.1 | 0.6 | 99.4 |
| Teachers | 2,320 | 0 | 4 | 0 | 5 | 9 | 2,310 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0 | 0.2 | 0.4 | 99.6 |
| Total (185): | | | | | | | |
| Students | 80,352 | 20 | 490 | 133 | 129 | 771 | 79,580 |
| Horiz. percent | 100.0 | 0 | 0.6 | 0.2 | 0.2 | 1.0 | 99.0 |
| Teachers | 3,515 | 0 | 5 | 0 | 9 | 14 | 3,501 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0 | 0.3 | 0.4 | 99.6 |
| New Jersey: | | | | | | | |
| Atlantic City (83): | | | | | | | |
| Students | 33,155 | 3 | 8,466 | 39 | 759 | 9,267 | 23,888 |
| Horiz. percent | 100.0 | 0 | 25.5 | 0.1 | 2.3 | 28.0 | 72.0 |
| Teachers | 1,331 | 0 | 212 | 0 | 0 | 212 | 1,119 |
| Horiz. percent | 100.0 | 0 | 16.0 | 0 | 0 | 16.0 | 84.0 |
| Jersey City (102): | | | | | | | |
| Students | 90,295 | 29 | 17,684 | 184 | 15,290 | 33,187 | 57,108 |
| Horiz. percent | 100.0 | 0 | 19.6 | 0.2 | 16.9 | 36.8 | 63.2 |
| Teachers | 3,779 | 1 | 213 | 4 | 12 | 230 | 3,549 |
| Horiz. percent | 100.0 | 0 | 5.6 | 0.1 | 0.3 | 6.1 | 93.9 |
| Newark (560): | | | | | | | |
| Students | 364,068 | 41 | 91,378 | 810 | 10,904 | 103,133 | 260,935 |
| Horiz. percent | 100.0 | 0 | 25.1 | 0.2 | 3.0 | 28.3 | 71.7 |
| Teachers | 16,790 | 1 | 1,641 | 19 | 41 | 1,703 | 15,087 |
| Horiz. percent | 100.0 | 0 | 9.8 | 0.1 | 0.2 | 10.1 | 89.9 |
| Paterson-Clifton-Passaic (397): | | | | | | | |
| Students | 253,500 | 25 | 20,263 | 545 | 7,398 | 28,231 | 225,269 |
| Horiz. percent | 100.0 | 0 | 8.0 | 0.2 | 2.9 | 11.1 | 88.9 |
| Teachers | 11,693 | 0 | 446 | 11 | 37 | 495 | 11,198 |
| Horiz. percent | 100.0 | 0 | 3.8 | 0.1 | 0.3 | 4.2 | 95.8 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| New Jersey—Continued | | | | | | | |
| Trenton (89): | | | | | | | |
| Students | 56,293 | 24 | 14,251 | 127 | 983 | 15,384 | 40,909 |
| Horiz. percent | 100.0 | 0 | 25.3 | 0.2 | 1.7 | 27.3 | 72.7 |
| Teachers | 2,602 | 0 | 274 | 6 | 3 | 283 | 2,319 |
| Horiz. percent | 100.0 | 0 | 10.5 | 0.2 | 0.1 | 10.9 | 89.1 |
| Vineland (54): | | | | | | | |
| Students | 28,307 | 12 | 6,154 | 128 | 1,414 | 7,708 | 20,599 |
| Horiz. percent | 100.0 | 0 | 21.7 | 0.5 | 5.0 | 27.2 | 72.8 |
| Teachers | 1,138 | 3 | 69 | 5 | 1 | 78 | 1,060 |
| Horiz. percent | 100.0 | 0.3 | 6.1 | 0.5 | 0.1 | 6.9 | 93.1 |
| Total (1,687): | | | | | | | |
| Students | 1,048,368 | 175 | 184,583 | 2,382 | 40,036 | 227,176 | 821,192 |
| Horiz. percent | 100.0 | 0 | 17.6 | 0.2 | 3.8 | 21.7 | 78.3 |
| Teachers | 46,980 | 9 | 3,629 | 62 | 117 | 3,871 | 43,163 |
| Horiz. percent | 100.0 | 0 | 7.7 | 0.1 | 0.2 | 8.1 | 91.9 |
| New Mexico: | | | | | | | |
| Albuquerque (111): | | | | | | | |
| Students | 79,669 | 1,704 | 1,897 | 207 | 28,151 | 31,959 | 47,710 |
| Horiz. percent | 100.0 | 2.1 | 2.4 | 0.3 | 35.3 | 40.1 | 59.9 |
| Teachers | 2,851 | 16 | 38 | 1 | 365 | 420 | 2,431 |
| Horiz. percent | 100.0 | 0.6 | 1.3 | 0 | 12.8 | 14.7 | 85.3 |
| Total (111): | | | | | | | |
| Students | 79,669 | 1,704 | 1,897 | 207 | 28,151 | 31,959 | 47,710 |
| Horiz. percent | 100.0 | 2.1 | 2.4 | 0.3 | 35.3 | 40.1 | 59.9 |
| Teachers | 2,851 | 16 | 38 | 1 | 365 | 420 | 2,431 |
| Horiz. percent | 100.0 | 0.6 | 1.3 | 0 | 12.8 | 14.7 | 85.3 |
| New York: | | | | | | | |
| Albany-Schenectady-Troy (246): | | | | | | | |
| Students | 136,446 | 74 | 6,525 | 201 | 200 | 7,000 | 129,446 |
| Horiz. percent | 100.0 | 0.1 | 4.8 | 0.1 | 0.1 | 5.1 | 94.9 |
| Teachers | 6,426 | 0 | 64 | 6 | 12 | 82 | 6,344 |
| Horiz. percent | 100.0 | 0 | 1.0 | 0.1 | 0.2 | 1.3 | 98.7 |
| Binghamton, N.Y-Pennsylvania (127): | | | | | | | |
| Students | 74,891 | 23 | 637 | 64 | 45 | 7.9 | 74,122 |
| Horiz. percent | 100.0 | 0 | 0.9 | 0.1 | 0.1 | 1.0 | 99.0 |
| Teachers | 3,497 | 5 | 16 | 5 | 5 | 31 | 3,466 |
| Horiz. percent | 100.0 | 0.1 | 0.5 | 0.1 | 0.1 | 0.9 | 99.1 |
| Buffalo (378): | | | | | | | |
| Students | 271,551 | 1,221 | 31,328 | 264 | 1,816 | 34,629 | 236,922 |
| Horiz. percent | 100.0 | 0.4 | 11.5 | 0.1 | 0.7 | 12.8 | 87.2 |
| Teachers | 11,984 | 11 | 378 | 5 | 20 | 414 | 11,570 |
| Horiz. percent | 100.0 | 0.1 | 3.2 | 0 | 0.2 | 3.5 | 96.5 |
| New York (1,912): | | | | | | | |
| Students | 1,909,269 | 1,768 | 392,465 | 18,006 | 256,530 | 668,769 | 1,240,500 |
| Horiz. percent | 100.0 | 0.1 | 20.6 | 0.9 | 13.4 | 35.0 | 65.0 |
| Teachers | 92,430 | 51 | 5,162 | 205 | 645 | 6,063 | 86,367 |
| Horiz. percent | 100.0 | 0.1 | 5.6 | 0.2 | 0.7 | 6.6 | 93.4 |
| Rochester (256): | | | | | | | |
| Students | 182,467 | 161 | 17,121 | 212 | 1,799 | 19,293 | 163,174 |
| Horiz. percent | 100.0 | 0.1 | 9.4 | 0.1 | 1.0 | 10.6 | 89.4 |
| Teachers | 8,347 | 2 | 149 | 4 | 6 | 161 | 8,186 |
| Horiz. percent | 100.0 | 0 | 1.8 | 0 | 0.1 | 1 9 | 98.1 |
| New York: | | | | | | | |
| Syracuse (225): | | | | | | | |
| Students | 144,624 | 537 | 6,847 | 126 | 128 | 7,638 | 136,986 |
| Horiz. percent | 100.0 | 0.4 | 4.7 | 0.1 | 0.1 | 5.3 | 94.7 |
| Teachers | 6,583 | 4 | 61 | 7 | 14 | 86 | 6,497 |
| Horiz. percent | 100.0 | 0.1 | 0.9 | 0.1 | 0.2 | 1.3 | 98.7 |
| Utica-Rome (150): | | | | | | | |
| Students | 85,394 | 18 | 2,800 | 63 | 267 | 3,148 | 82,246 |
| Horiz. percent | 100.0 | 0 | 3.3 | 0.1 | 0.3 | 3.7 | 96.3 |
| Teachers | 3,860 | 1 | 54 | 4 | 6 | 65 | 3,795 |
| Horiz. percent | 100.0 | 0 | 1.4 | 0.1 | 0.2 | 1.7 | 98.3 |
| Total (3,275): | | | | | | | |
| Students | 2,796,414 | 3,802 | 457,722 | 18,936 | 260,785 | 741,245 | 2,055,169 |
| Horiz. percent | 100.0 | 0.1 | 16.4 | 0.7 | 9.3 | 26.5 | 73.5 |
| Teachers | 132,760 | 74 | 5,884 | 236 | 708 | 6,902 | 125,858 |
| Horiz. percent | 100.0 | 0.1 | 4.4 | 0.2 | 0.5 | 5.2 | 94.8 |
| North Carolina: | | | | | | | |
| Asheville (47): | | | | | | | |
| Students | 29,765 | 19 | 3,472 | 13 | 13 | 3,517 | 26,248 |
| Horiz. percent | 100.0 | 0.1 | 11.7 | 0 | 0 | 11.8 | 88.2 |
| Teachers | 1,117 | 0 | 111 | 0 | 0 | 111 | 1,006 |
| Horiz. percent | 100.0 | 0 | 9.9 | 0 | 0 | 9.9 | 90.1 |
| Charlotte (136): | | | | | | | |
| Students | 95,844 | 113 | 27,520 | 42 | 96 | 27,771 | 68,073 |
| Horiz. Percent | 100.0 | 0.1 | 28.7 | 0 | 0.1 | 19.0 | 71.0 |
| Teachers | 3,823 | 2 | 936 | 2 | 2 | 942 | 2,881 |
| Horiz. percent | 100.0 | 0.1 | 24.5 | 0.1 | 0.1 | 24.6 | 75.4 |
| Durham (67): | | | | | | | |
| Students | 37,875 | 9 | 14,035 | 21 | 27 | 14,092 | 23,783 |
| Horiz. percent | 100.0 | 0 | 37.1 | 0.1 | 0.1 | 37.2 | 62.8 |
| Teachers | 1,526 | 0 | 454 | 0 | 1 | 455 | 1,071 |
| Horiz. percent | 100.0 | 0 | 29.8 | 0.1 | 0.1 | 29.8 | 70.2 |
| Fayetteville (63): | | | | | | | |
| Students | 43,257 | 664 | 12,737 | 50 | 84 | 13,535 | 29,722 |
| Horiz. percent | 100.0 | 1.5 | 29.4 | 0.1 | 0.2 | 31.3 | 68.7 |
| Teachers | 1,615 | 13 | 454 | 0 | 0 | 467 | 1,148 |
| Horiz. percent | 100.0 | 0.8 | 28.1 | 0 | 0 | 28.9 | 71.1 |
| Greensboro-High Point (201): | | | | | | | |
| Students | 139,156 | 261 | 32,399 | 32 | 34 | 32,726 | 106,430 |
| Horiz. percent | 100.0 | 0.2 | 23.3 | 0 | 0 | 23.5 | 76.5 |
| Teachers | 5,363 | 6 | 1,166 | 0 | 4 | 1,176 | 4,187 |
| Horiz. percent | 100.0 | 0.1 | 21.7 | 0 | 0.1 | 21.9 | 78.1 |
| Raleigh (84): | | | | | | | |
| Students | 49,083 | 44 | 13,853 | 52 | 39 | 13,988 | 35,095 |
| Horiz. percent | 100.0 | 0.1 | 28.2 | 0.1 | 0.1 | 28.5 | 71.5 |
| Teachers | 2,071 | 1 | 572 | 0 | 1 | 574 | 1,497 |
| Horiz. percent | 100.0 | 0 | 27.6 | 0 | 0 | 27.7 | 72.3 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| North Carolina—Continued | | | | | | | |
| Wilmington (35): | | | | | | | |
| Students | 25,283 | 38 | 7,850 | 12 | 21 | 7,921 | 17,362 |
| Horiz. percent | 100.0 | 0.2 | 31.0 | 0 | 0.1 | 31.3 | 68.7 |
| Teachers | 974 | 0 | 280 | 1 | 1 | 282 | 692 |
| Horiz. percent | 100.0 | 0 | 28.7 | 0.1 | 0.1 | 29.0 | 71.0 |
| Total (638): | | | | | | | |
| Students | 420,263 | 1,148 | 111,866 | 222 | 314 | 113,550 | 306,713 |
| Horiz. percent | 100.0 | 0.3 | 26.6 | 0.1 | 0.1 | 27.0 | 73.0 |
| Teachers | 16,489 | 22 | 3,973 | 3 | 9 | 4,007 | 12,482 |
| Horiz. percent | 100.0 | 0.1 | 24.1 | 0 | 0.1 | 24.3 | 75.7 |
| North Dakota: | | | | | | | |
| Fargo-Moorhead, N. Dak. Minn. (55): | | | | | | | |
| Students | 26,284 | 53 | 3 | 31 | 191 | 278 | 26,006 |
| Horiz. percent | 100.0 | 0.2 | 0 | 0.1 | 0.7 | 1.1 | 98.9 |
| Teachers | 1,128 | 0 | 0 | 0 | 0 | 0 | 1,128 |
| Horiz. percent | 100.0 | 0 | 0 | 0 | 0 | 0 | 100.0 |
| Total (27): | | | | | | | |
| Students | 14,159 | 23 | 1 | 18 | 20 | 62 | 14,097 |
| Horiz. percent | 100.0 | 0.2 | 0. | 0.1 | 0.1 | 0.4 | 99.6 |
| Teachers | 572 | 0 | 0 | 0 | 0 | 0 | 572 |
| Horiz. percent | 100.0 | 0 | 0 | 0 | 0 | 0 | 100.0 |
| Ohio: | | | | | | | |
| Akron (229): | | | | | | | |
| Students | 157,480 | 33 | 16,830 | 176 | 120 | 17,159 | 140,321 |
| Horiz. percent | 100.0 | .0 | 10.7 | 0.1 | 0.1 | 10.9 | 89.1 |
| Teachers | 5,989 | 0 | 182 | 5 | 9 | 196 | 5,793 |
| Horiz. percent | 100.0 | .0 | 3.0 | 0.1 | 0.2 | 3.3 | 96.7 |
| Canton (140): | | | | | | | |
| Students | 84,327 | 27 | 7,043 | 52 | 228 | 7,350 | 76,977 |
| Horiz. percent | 100.0 | .0 | 8.4 | 0.1 | 0.3 | 8.7 | 91.3 |
| Teachers | 3,331 | 2 | 74 | 2 | 8 | 86 | 3,245 |
| Horiz. percent | 100.0 | 0.1 | 2.2 | 0.1 | 0.2 | 2.6 | 97.4 |
| Cincinnati, Ohio, Kentucky, Indiana (405): | | | | | | | |
| Students | 284,743 | 65 | 43,607 | 307 | 317 | 44,296 | 240,447 |
| Horiz. percent | 100.0 | .0 | 15.3 | 0.1 | 0.1 | 15.6 | 84.4 |
| Teachers | 10,851 | 1 | 875 | 14 | 9 | 899 | 9,952 |
| Horiz. percent | 100.0 | .0 | 8.1 | 0.1 | 0.1 | 8.3 | 91.7 |
| Cleveland (575): | | | | | | | |
| Students | 423,815 | 173 | 97,596 | 769 | 2,657 | 101,195 | 322,620 |
| Horiz. percent | 100.0 | 0 | 23.0 | 0.2 | 0.6 | 23.9 | 76.1 |
| Teachers | 16,584 | 6 | 2,236 | 19 | 19 | 2,280 | 14,304 |
| Horiz. percent | 100.0 | 0 | 13.5 | 0.1 | 0.1 | 13.7 | 86.3 |
| Columbus (329): | | | | | | | |
| Students | 205,158 | 49 | 30,367 | 362 | 235 | 31,013 | 174,145 |
| Horiz. percent | 100.0 | 0 | 14.8 | 0.2 | 0.1 | 15.1 | 84.9 |
| Teachers | 7,690 | 1 | 527 | 8 | 7 | 543 | 7,147 |
| Horiz. percent | 100.0 | 0 | 6.9 | 0.1 | 0.1 | 7.1 | 92.9 |
| Dayton (283): | | | | | | | |
| Students | 201,471 | 42 | 27,453 | 284 | 296 | 28,075 | 173,396 |
| Horiz. percent | 100.0 | 0 | 13.6 | 0.1 | 0.1 | 13.9 | 86.1 |
| Teachers | 7,739 | 0 | 796 | 7 | 6 | 809 | 6,930 |
| Horiz. percent | 100.0 | 0 | 10.3 | 0.1 | 0.1 | 10.5 | 89.5 |
| Hamilton, Middletown (80): | | | | | | | |
| Students | 51,663 | 23 | 3,677 | 28 | 32 | 3,760 | 47,903 |
| Horiz. percent | 100.0 | 0 | 7.1 | 0.1 | 0.1 | 7.3 | 92.7 |
| Teachers | 2,096 | 1 | 45 | 3 | 1 | 50 | 2,046 |
| Horiz. percent | 100.0 | 0 | 2.1 | 0.1 | 0 | 2.4 | 97.6 |
| Lima (85): | | | | | | | |
| Students | 40,268 | 6 | 3,032 | 34 | 797 | 3,869 | 36,399 |
| Horiz. percent | 100.0 | 0 | 7.5 | 0.1 | 2.0 | 9.6 | 90.4 |
| Teachers | 1,629 | 1 | 56 | 2 | 2 | 61 | 1,568 |
| Horiz. percent | 100.0 | 0.1 | 3.4 | 0.1 | 0.1 | 3.7 | 96.3 |
| Lorain-Elyria (102): | | | | | | | |
| Students | 62,314 | 55 | 5,445 | 50 | 2,779 | 8,329 | 53,985 |
| Horiz. percent | 100.0 | 0.1 | 8.7 | 0.1 | 4.5 | 13.4 | 86.6 |
| Teachers | 2,295 | 0 | 78 | 2 | 6 | 86 | 2,209 |
| Horiz. percent | 100.0 | 0 | 3.4 | 0.1 | 0.3 | 3.7 | 96.3 |
| Mansfield (55): | | | | | | | |
| Students | 33,049 | 13 | 2,393 | 23 | 94 | 2,523 | 30,526 |
| Horiz. percent | 100.0 | 0 | 7.2 | 0.1 | 0.3 | 7.6 | 92.4 |
| Teachers | 1,386 | 2 | 13 | 0 | 5 | 20 | 1,366 |
| Horiz. percent | 100.0 | 0.1 | 0.9 | 0 | 0.4 | 1.4 | 98.6 |
| pringfield (66): | | | | | | | |
| Students | 36,817 | 23 | 4,006 | 41 | 34 | 4,104 | 32,713 |
| Horiz. percent | 100.0 | 0.1 | 10.9 | 0.1 | 0.1 | 11.1 | 88.9 |
| Teachers | 1,370 | 0 | 53 | 2 | 0 | 55 | 1,315 |
| Horiz. percent | 100.0 | 0 | 3.9 | 0.1 | 0 | 4.0 | 96.0 |
| teubenville-Weirton, Ohio, W. Va. (92): | | | | | | | |
| Students | 37,550 | 13 | 2,137 | 28 | 21 | 2,199 | 35,351 |
| Horiz. percent | 100.0 | 0 | 5.7 | 0.1 | 0.1 | 5.9 | 94.1 |
| Teachers | 1,493 | 1 | 29 | 2 | 2 | 34 | 1,459 |
| Horiz. percent | 100.0 | 0.1 | 1.9 | 0.1 | 0.1 | 2.3 | 97.7 |
| Toledo, Ohio, Michigan (226): | | | | | | | |
| Students | 143,660 | 55 | 17,372 | 161 | 2,828 | 20,416 | 123,244 |
| Horiz. percent | 100.0 | 0 | 12.1 | 0.1 | 2.0 | 14.2 | 85.8 |
| Teachers | 5,551 | 1 | 387 | 7 | 13 | 408 | 5,143 |
| Horiz. percent | 100.0 | 0 | 7.0 | 0.1 | 0.2 | 7.4 | 92.6 |
| Youngstown-Warren (212): | | | | | | | |
| Students | 116,538 | 25 | 15,866 | 118 | 1,152 | 17,161 | 99,377 |
| Horiz. percent | 100.0 | 0 | 13.6 | 0.1 | 1.0 | 14.7 | 85.3 |
| Teachers | 4,514 | 0 | 110 | 4 | 8 | 122 | 4,392 |
| Horiz. percent | 100.0 | 0 | 2.4 | 0.1 | 0.2 | 2.7 | 97.3 |
| Total (2,766): | | | | | | | |
| Students | 1,810,741 | 585 | 275,281 | 2,419 | 11,012 | 289,297 | 1,521,444 |
| Horiz. percent | 100.0 | 0 | 15.2 | 0.1 | 0.6 | 16.0 | 84.0 |
| Teachers | 69,877 | 14 | 5,419 | 75 | 90 | 5,598 | 64,279 |
| Horiz. percent | 100.0 | 0 | 7.8 | 0.1 | 0.1 | 8.0 | 92.0 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Oklahoma: | | | | | | | |
| Lawton (42): | | | | | | | |
| Students | 21,892 | 1,264 | 2,490 | 342 | 661 | 4,757 | 17,135 |
| Horiz. percent | 100.0 | 5.8 | 11.4 | 1.6 | 3.0 | 21.7 | 78.3 |
| Teachers | 871 | 12 | 48 | 0 | 3 | 63 | 808 |
| Horiz. percent | 100.0 | 1.4 | 5.5 | 0 | 0.3 | 7.2 | 92.8 |
| Oklahoma City (44): | | | | | | | |
| Students | 24,508 | 482 | 293 | 30 | 71 | 876 | 23,632 |
| Horiz. percent | 100.0 | 2.0 | 1.2 | 0.1 | 0.3 | 3.6 | 96.4 |
| Teachers | 984 | 12 | 8 | 0 | 0 | 20 | 964 |
| Horiz. percent | 100.0 | 1.3 | 0.8 | 0 | 0 | 2.1 | 97.9 |
| Tulsa (31): | | | | | | | |
| Students | 10,740 | 356 | 731 | 16 | 15 | 1,118 | 9,622 |
| Horiz. percent | 100.0 | 3.3 | 6.8 | 0.1 | 0.1 | 10.4 | 89.6 |
| Teachers | 416 | 3 | 14 | 0 | 0 | 18 | 399 |
| Horiz. percent | 100.0 | 0.8 | 3.4 | 0 | 0 | 4.2 | 95.8 |
| Total (117): | | | | | | | |
| Students | 57,140 | 2,103 | 3,514 | 388 | 747 | 6,751 | 50,389 |
| Horiz. percent | 100.0 | 3.7 | 6.1 | 0.7 | 1.3 | 11.8 | 88.2 |
| Teachers | 2,271 | 28 | 70 | 0 | 3 | 101 | 2,170 |
| Horiz. percent | 100.0 | 1.2 | 3.1 | 0 | 0.1 | 4.4 | 95.6 |
| Oregon: | | | | | | | |
| Portland, Oreg.-Washington (302): | | | | | | | |
| Students | 176,385 | 539 | 6,672 | 1,509 | 1,222 | 9,941 | 166,444 |
| Horiz. percent | 100.0 | 0.3 | 3.8 | 0.9 | 0.7 | 5.6 | 94.4 |
| Teachers | 7,326 | 17 | 85 | 47 | 14 | 163 | 7,163 |
| Horiz. percent | 100.0 | 0.2 | 1.2 | 0.6 | 0.2 | 2.2 | 97.8 |
| Salem (24): | | | | | | | |
| Students | 6,368 | 19 | 23 | 13 | 295 | 349 | 6,019 |
| Horiz. percent | 100.0 | 0.3 | 0.4 | 0.2 | 4.6 | 5.5 | 94.5 |
| Teachers | 309 | 0 | 0 | 0 | 0 | 0 | 309 |
| Horiz. percent | 100.0 | 0 | 0 | 0 | 0 | 0 | 100.0 |
| Total (273): | | | | | | | |
| Students | 151,861 | 449 | 6,505 | 1,432 | 1,429 | 9,860 | 142,002 |
| Horiz. percent | 100.0 | 0.3 | 4.3 | 0.9 | 0.9 | 6.5 | 93.5 |
| Teachers | 6,506 | 13 | 79 | 38 | 14 | 144 | 6,362 |
| Horiz. percent | 100.0 | 0.2 | 1.2 | 0.6 | 0.2 | 2.2 | 97.8 |
| Pennsylvania: | | | | | | | |
| Allentown-Bethlehem-Easton, Pa.-New Jersey (210): | | | | | | | |
| Students | 107,150 | 9 | 1,673 | 110 | 1,248 | 3,040 | 104,110 |
| Horiz. percent | 100.0 | 0 | 1.6 | 0.1 | 1.2 | 2.8 | 97.2 |
| Teachers | 4,255 | 0 | 22 | 1 | 7 | 30 | 4,225 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0 | 0.2 | 0.7 | 99.3 |
| Altoona (54): | | | | | | | |
| Students | 27,232 | 2 | 245 | 14 | 5 | 266 | 26,967 |
| Horiz. percent | 100.0 | 0 | 0.9 | 0.1 | 0 | 1.0 | 99.0 |
| Teachers | 1,016 | 0 | 5 | 0 | 0 | 5 | 1,011 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0 | 0 | 0.5 | 99.5 |
| Erie (90): | | | | | | | |
| Students | 57,297 | 18 | 3,006 | 47 | 83 | 3,155 | 54,142 |
| Horiz. percent | 100.0 | 0 | 5.2 | 0.1 | 0.1 | 5.5 | 94.5 |
| Teachers | 2,210 | 0 | 12 | 0 | 1 | 14 | 2,196 |
| Horiz. percent | 100.0 | 0 | 0.6 | 0 | 0.1 | 0.6 | 99.4 |
| Harrisburg (186): | | | | | | | |
| Students | 95,209 | 13 | 7,976 | 116 | 151 | 8,256 | 86,953 |
| Horiz. percent | 100.0 | 0 | 8.4 | 0.1 | 0.2 | 8.7 | 91.3 |
| Teachers | 3,999 | 0 | 119 | 0 | 7 | 126 | 3,873 |
| Horiz. percent | 100.0 | 0 | 3.0 | 0 | 0.2 | 3.1 | 96.9 |
| Johnston (142): | | | | | | | |
| Students | 57,007 | 0 | 1,182 | 18 | 36 | 1,236 | 55,770 |
| Horiz. percent | 100.0 | 0 | 2.1 | 0 | 0.1 | 2.2 | 97.8 |
| Teachers | 2,314 | 0 | 7 | 0 | 3 | 10 | 2,304 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0 | 0.1 | 0.4 | 99.6 |
| Lancaster (142): | | | | | | | |
| Students | 68,704 | 9 | 1,547 | 56 | 606 | 2,218 | 66,487 |
| Horiz. percent | 100.0 | 0 | 2.3 | 0.1 | 0.9 | 3.2 | 96.8 |
| Teachers | 2,913 | 0 | 14 | 2 | 6 | 22 | 2,892 |
| Horiz. percent | 100.0 | 0 | 0.5 | 0.1 | 0.2 | 0.7 | 99.3 |
| Philadelphia, Pa.-New Jersey (1,182): | | | | | | | |
| Students | 846,801 | 139 | 218,129 | 1,209 | 11,394 | 230,871 | 615,930 |
| Horiz. percent | 100.0 | 0 | 25.8 | 0.1 | 1.3 | 27.3 | 72.7 |
| Teachers | 35,685 | 9 | 4,865 | 46 | 59 | 4,979 | 30,706 |
| Horiz. percent | 100.0 | 0 | 13.6 | 0.1 | 0.2 | 14.0 | 86.0 |
| Pittsburgh (924): | | | | | | | |
| Students | 464,489 | 92 | 46,271 | 598 | 370 | 47,331 | 417,158 |
| Horiz. percent | 100.0 | 0 | 10.0 | 0.1 | 0.1 | 10.2 | 89.8 |
| Teachers | 18,536 | 0 | 446 | 5 | 10 | 461 | 18,074 |
| Horiz. percent | 100.0 | 0 | 2.4 | 0 | 0.1 | 2.5 | 97.5 |
| Reading (132): | | | | | | | |
| Students | 64,605 | 23 | 1,852 | 43 | 598 | 2,516 | 62,089 |
| Horiz. percent | 100.0 | 0 | 2.9 | 0.1 | 0.9 | 3.9 | 96.1 |
| Teachers | 2,649 | 0 | 16 | 0 | 2 | 18 | 2,631 |
| Horiz. percent | 100.0 | 0 | 0.6 | 0 | 0.1 | 0.7 | 99.3 |
| Scranton (87): | | | | | | | |
| Students | 39,955 | 0 | 264 | 6 | 12 | 283 | 39,673 |
| Horiz. percent | 100.0 | 0 | 0.7 | 0 | 0 | 0.7 | 99.3 |
| Teachers | 1,543 | 0 | 4 | 0 | 0 | 4 | 1,539 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0 | 0 | 0.3 | 99.7 |
| Wilkes-Barre-Hazleton (137): | | | | | | | |
| Students | 56,558 | 17 | 314 | 25 | 18 | 374 | 56,184 |
| Horiz. percent | 100.0 | 0 | 0.6 | 0 | 0 | 0.7 | 99.3 |
| Teachers | 2,300 | 0 | 1 | 0 | 0 | 1 | 2,299 |
| Horiz. percent | 100.0 | 0 | 0 | 0 | 0 | 0 | 100.0 |
| York (142): | | | | | | | |
| Students | 68,974 | 2 | 2,641 | 31 | 110 | 2,783 | 66,191 |
| Horiz. percent | 100.0 | 0 | 3.8 | 0. | 0.2 | 4.0 | 96.0 |
| Teachers | 2,961 | 0 | 21 | 2 | 1 | 24 | 2,936 |
| Horiz. percent | 100.0 | 0 | 0.7 | 0.1 | 0 | 0.8 | 99.2 |
| Total (3,075): | | | | | | | |
| Students | 1,752,012 | 283 | 260,586 | 1,729 | 11,549 | 274,146 | 1,477,866 |
| Horiz. percent | 100.0 | .0 | 14.9 | 0.1 | 0.7 | 15.6 | 84.4 |
| Teachers | 71,674 | 5 | 4,782 | 41 | 76 | 4,904 | 66,770 |
| Horiz. percent | 100.0 | .0 | 6.7 | 0.1 | 0.1 | 6.8 | 93.2 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | JJNegro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Rhode Island: | | | | | | | |
| Providence-Pawtucket-Warwick, R.I.-Mass. (324): | | | | | | | |
| Students | 158,802 | 123 | 7,085 | 322 | 412 | 7,942 | 150,860 |
| Horiz. percent | 100.0 | 0.1 | 4.5 | 0.2 | 0.3 | 5.0 | 95.0 |
| Teachers | 6,919 | 0 | 60 | 5 | 2 | 67 | 6,852 |
| Horiz. percent | 100.0 | .0 | 0.9 | 0.1 | .0 | 1.0 | 99.0 |
| Total (355): | | | | | | | |
| Students | 172,264 | 143 | 8,047 | 417 | 490 | 9,098 | 163,166 |
| Horiz. percent | 100.0 | 0.1 | 4.7 | 0.2 | 0.3 | 5.3 | 94.7 |
| Teachers | 7,584 | 0 | 70 | 6 | 4 | 80 | 7,504 |
| Horiz. percent | 100.0 | .0 | 0.9 | 0.1 | 0.1 | 1.1 | 98.9 |
| South Carolina: | | | | | | | |
| Charleston (118): | | | | | | | |
| Students | 75,628 | 11 | 33,437 | 68 | 57 | 33,573 | 42,055 |
| Horiz. percent | 100.0 | 0 | 44.2 | 0.1 | 0.1 | 44.4 | 55.6 |
| Teachers | 2,841 | 1 | 1,114 | 2 | 3 | 1,120 | 1,721 |
| Horiz. percent | 100.0 | 0 | 39.2 | 0.1 | 0.1 | 39.4 | 60.6 |
| Columbia (112): | | | | | | | |
| Students | 69,810 | 15 | 23,983 | 62 | 118 | 24,178 | 45,632 |
| Horiz. percent | 100.0 | 0 | 34.4 | 0.1 | 0.2 | 34.6 | 65.4 |
| Teachers | 2,782 | 0 | 776 | 2 | 1 | 779 | 2,003 |
| Horiz. percent | 100.0 | 0 | 27.9 | 0.1 | 0 | 28.0 | 72.0 |
| Greenville (136): | | | | | | | |
| Students | 69,290 | 3 | 14,025 | 7 | 2 | 14,037 | 55,253 |
| Horiz. percent | 100.0 | 0 | 20.2 | 0 | 0 | 20.3 | 79.7 |
| Teachers | 2,601 | 0 | 454 | 0 | 0 | 454 | 2,147 |
| Horiz. percent | 100.0 | 0 | 17.5 | 0 | 0 | 17.5 | 82.5 |
| Total (421): | | | | | | | |
| Students | 239,390 | 29 | 78,910 | 140 | 181 | 79,260 | 160,130 |
| Horiz. percent | 100.0 | 0 | 33.1 | 0.1 | 0.1 | 33.1 | 66.9 |
| Teachers | 9,169 | 1 | 2,580 | 4 | 4 | 2,589 | 6,580 |
| Horiz. percent | 100.0 | 0 | 28.1 | 0 | 0 | 28.2 | 71.8 |
| South Dakota: | | | | | | | |
| Sioux Falls (43): | | | | | | | |
| Students | 24,140 | 129 | 33 | 18 | 19 | 199 | 23,931 |
| Horiz. percent | 100.0 | 0.5 | 0.1 | 0.1 | 0.1 | 0.8 | 99.2 |
| Teachers | 1,008 | 1 | 1 | 0 | 1 | 3 | 1,005 |
| Horiz. percent | 100.0 | 0.1 | 0.1 | 0 | 0.1 | 0.3 | 99.7 |
| Total (43): | | | | | | | |
| Students | 24,130 | 129 | 33 | 18 | 19 | 199 | 23,931 |
| Horiz. percent | 100.0 | 0.5 | 0.1 | 0.1 | 0.1 | 0.8 | 99.2 |
| Teachers | 1,008 | 1 | 1 | 0 | 1 | 3 | 1,005 |
| Horiz. percent | 100.0 | 0.1 | 0.1 | 0 | 0.1 | 0.3 | 99.7 |
| Tennessee: | | | | | | | |
| Chattanooga, Tenn.-Ga. (129): | | | | | | | |
| Students | 69,182 | 9 | 15,336 | 39 | 15 | 15,399 | 53,783 |
| Horiz. percent | 100.0 | 0 | 22.2 | 0.1 | 0 | 22.3 | 77.7 |
| Teachers | 2,527 | 0 | 494 | 0 | 1 | 495 | 2,032 |
| Horiz. percent | 100.0 | 0 | 19.5 | 0 | 0 | 19.6 | 80.4 |
| Knoxville (179): | | | | | | | |
| Students | 90,667 | 66 | 7,845 | 45 | 31 | 7,988 | 82,680 |
| Horiz. percent | 100.0 | 0.1 | 8.7 | 0 | 0 | 8.8 | 91.2 |
| Teachers | 3,435 | 0 | 234 | 0 | 0 | 234 | 3,201 |
| Horiz. percent | 100.0 | 0 | 6.8 | 0 | 0 | 6.8 | 93.2 |
| Memphis, Tenn.-Ark. (204): | | | | | | | |
| Students | 183,080 | 46 | 89,041 | 251 | 96 | 89,434 | 93,646 |
| Horiz. percent | 100.0 | 0 | 48.6 | 0.1 | 0.1 | 48.8 | 51.2 |
| Teachers | 6,725 | 1 | 2,842 | 1 | 1 | 2,845 | 3,880 |
| Horiz. percent | 100.0 | 0 | 42.3 | 0 | 0 | 42.3 | 57.7 |
| Nashville (190): | | | | | | | |
| Students | 114,299 | 18 | 25,049 | 54 | 49 | 25,170 | 89,129 |
| Horiz. percent | 100.0 | 0 | 21.9 | 0 | 0 | 22.0 | 78.0 |
| Teachers | 4,227 | 0 | 8.6 | 0 | 1 | 817 | 3,410 |
| Horiz. percent | 100.0 | 0 | 19.3 | 0 | 0 | 19.3 | 80.7 |
| Total (651): | | | | | | | |
| Students | 432,393 | 139 | 129,112 | 379 | 184 | 129,815 | 302,579 |
| Horiz. percent | 100.0 | 0 | 29.9 | 0.1 | 0 | 30.0 | 70.0 |
| Teachers | 15,972 | 1 | 4,116 | 1 | 2 | 4,120 | 11,852 |
| Horiz. percent | 100.0 | 0 | 25.8 | 0 | 0 | 25.8 | 74.2 |
| Texas: | | | | | | | |
| Abilene (56): | | | | | | | |
| Students | 26,095 | 5 | 1,727 | 22 | 3,235 | 4,989 | 21,106 |
| Horiz. percent | 100.0 | 0 | 6.6 | 0.1 | 12.4 | 19.1 | 80.9 |
| Teachers | 1,137 | 0 | 36 | 0 | 7 | 43 | 1,094 |
| Horiz. percent | 100.0 | 0 | 3.2 | 0 | 0.6 | 3.8 | 96.2 |
| Amarillo (56): | | | | | | | |
| Students | 34,567 | 4 | 2,228 | 0 | 1,682 | 3,913 | 30,654 |
| Horiz. percent | 100.0 | 0 | 6.4 | 0 | 4.9 | 11.3 | 88.7 |
| Teachers | 1,450 | 0 | 68 | 0 | 8 | 76 | 1,374 |
| Horiz. percent | 100.0 | 0 | 4.7 | 0 | 0.6 | 5.2 | 94.8 |
| Austin (79): | | | | | | | |
| Students | 56,465 | 22 | 8,414 | 100 | 10,878 | 19,414 | 37,052 |
| Horiz. percent | 100.0 | 0 | 14.9 | 0.2 | 19.3 | 34.4 | 65.6 |
| Teachers | 2,426 | 0 | 325 | 3 | 58 | 386 | 2,041 |
| Horiz. percent | 100.0 | 0 | 13.4 | 0.1 | 2.4 | 15.9 | 84.1 |
| Beaumont-Port Arthur (119): | | | | | | | |
| Students | 79,889 | 18 | 19,442 | 44 | 1,647 | 21,150 | 58,739 |
| Horiz. percent | 100.0 | 0 | 24.3 | 0.1 | 2.1 | 26.5 | 73.5 |
| Teachers | 3,609 | 0 | 730 | 0 | 17 | 747 | 2,862 |
| Horiz. percent | 100.0 | 0 | 20.2 | 0 | 0.5 | 20.7 | 79.3 |
| Brownsville-Harlingen-San Benito (72): | | | | | | | |
| Students | 38,757 | 2 | 163 | 43 | 30,486 | 30,693 | 8,064 |
| Horiz. percent | 100.0 | 0 | 0.4 | 0.1 | 78.7 | 79.2 | 20.8 |
| Teachers | 1,534 | 0 | 12 | 3 | 509 | 524 | 1,009 |
| Horiz. percent | 100.0 | 0 | 0.8 | 0.2 | 33.2 | 34.2 | 65.8 |
| Corpus Christi (127): | | | | | | | |
| Students | 74,802 | 9 | 3,541 | 27 | 36,404 | 39,982 | 34,821 |
| Horiz. percent | 100.0 | 0 | 4.7 | 0 | 48.7 | 53.4 | 46.6 |
| Teachers | 3,127 | 0 | 81 | 0 | 435 | 516 | 2,611 |
| Horiz. percent | 100.0 | 0 | 2.6 | 0 | 13.9 | 16.5 | 83.5 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Texas—Continued | | | | | | | |
| Dallas (464): | | | | | | | |
| Students | 322,724 | 716 | 60,944 | 324 | 17,095 | 79,079 | 243,645 |
| Horiz. percent | 100.0 | 0.2 | 18.9 | 0.1 | 5.3 | 24.5 | 75.5 |
| Teachers | 12,813 | 7 | 1,856 | 2 | 58 | 1,923 | 10,891 |
| Horiz. percent | 100.0 | 0.1 | 14.5 | 0 | 0.5 | 15.0 | 85.0 |
| El Paso (100): | | | | | | | |
| Students | 96,638 | 122 | 2,738 | 379 | 54,738 | 57,977 | 38,662 |
| Horiz. percent | 100.0 | 0.1 | 2.8 | 0.4 | 56.6 | 60.0 | 40.0 |
| Teachers | 3,768 | 2 | 96 | 10 | 592 | 700 | 3,068 |
| Horiz. percent | 100.0 | 0.1 | 2.5 | 0.3 | 15.7 | 18.6 | 81.4 |
| Fort Worth (236): | | | | | | | |
| Students | 165,875 | 195 | 22,936 | 145 | 8,056 | 31,332 | 134,543 |
| Horiz. percent | 100.0 | 0.1 | 13.8 | 0.1 | 4.9 | 18.9 | 81.1 |
| Teachers | 6,427 | 2 | 759 | 0 | 30 | 791 | 5,635 |
| Horiz. percent | 100.0 | 0 | 11.8 | 0 | 0.5 | 12.3 | 87.7 |
| Galveston-Texas City (67): | | | | | | | |
| Students | 45,496 | 168 | 9,607 | 66 | 4,216 | 14,057 | 31,439 |
| Horiz. percent | 100.0 | 0.4 | 21.1 | 0.1 | 9.3 | 30.9 | 69.1 |
| Teachers | 2,001 | 3 | 334 | 0 | 20 | 357 | 1,644 |
| Horiz. percent | 100.0 | 0.1 | 16.7 | 0 | 1.0 | 17.8 | 82.2 |
| Houston (523): | | | | | | | |
| Students | 466,588 | 310 | 104,994 | 1,318 | 44,882 | 151,504 | 315,084 |
| Horiz. percent | 100.0 | 0.1 | 22.5 | 0.3 | 9.6 | 32.5 | 67.5 |
| Teachers | 17,993 | 8 | 3,506 | 25 | 197 | 3,736 | 14,257 |
| Horiz. percent | 100.0 | 0 | 19.5 | 0.1 | 1.1 | 20.8 | 79.2 |
| Laredo (22): | | | | | | | |
| Students | 17,086 | 0 | 64 | 8 | 15,366 | 15,438 | 1,648 |
| Horiz. percent | 100.0 | 0 | 0.4 | 0 | 89.9 | 90.4 | 9.6 |
| Teachers | 637 | 0 | 1 | 0 | 484 | 485 | 152 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0 | 76.0 | 76.1 | 23.9 |
| Lubbock (65): | | | | | | | |
| Students | 39,003 | 13 | 4,425 | 17 | 7,950 | 12,405 | 26,598 |
| Horiz. percent | 100.0 | 0 | 11.3 | 0 | 20.4 | 31.8 | 68.2 |
| Teachers | 1,628 | 2 | 116 | 1 | 29 | 148 | 1,480 |
| Horiz. percent | 100.0 | 0.1 | 7.1 | 0.1 | 1.8 | 9.1 | 90.9 |
| McAllen-Pharr-Edinburgh (85): | | | | | | | |
| Students | 43,339 | 1 | 90 | 29 | 34,891 | 35,011 | 8,328 |
| Horiz. percent | 100.0 | 0 | 0.2 | 0.1 | 80.5 | 80.8 | 19.2 |
| Teachers | 1,911 | 0 | 6 | 0 | 654 | 660 | 1,251 |
| Horiz. percent | 100.0 | 0 | 0.3 | 0 | 34.2 | 34.5 | 65.5 |
| Midland (26): | | | | | | | |
| Students | 18,154 | 0 | 2,176 | 6 | 1,972 | 4,154 | 14,000 |
| Horiz. percent | 100.0 | 0 | 12.0 | 0 | 10.9 | 22.9 | 77.1 |
| Teachers | 758 | 0 | 58 | 1 | 9 | 68 | 690 |
| Horiz. percent | 100.0 | 0 | 7.7 | 0.1 | 1.2 | 9.0 | 91.0 |
| Odessa (32): | | | | | | | |
| Students | 24,855 | 15 | 1,605 | 17 | 3,658 | 5,295 | 19,560 |
| Horiz. percent | 100.0 | 0.1 | 6.5 | 0.1 | 14.7 | 21.3 | 78.7 |
| Teachers | 1,070 | 0 | 60 | 0 | 15 | 75 | 995 |
| Horiz. percent | 100.0 | 0 | 5.6 | 0 | 1.4 | 7.0 | 93.0 |
| San Angelo (29): | | | | | | | |
| Students | 14,885 | 3 | 784 | 5 | 3,206 | 3,998 | 10,887 |
| Horiz. percent | 100.0 | 0 | 5.3 | 0 | 21.5 | 26.9 | 73.1 |
| Teachers | 596 | 0 | 17 | 0 | 6 | 23 | 573 |
| Horiz. percent | 100.0 | 0 | 2.9 | 0 | 1.0 | 3.9 | 96.1 |
| San Antonio (255): | | | | | | | |
| Students | 194,591 | 44 | 14,759 | 549 | 91,137 | 106,489 | 88,102 |
| Horiz. percent | 100.0 | 0 | 7.6 | 0.3 | 46.8 | 54.7 | 45.3 |
| Teachers | 7,582 | 2 | 668 | 13 | 835 | 1,518 | 6,064 |
| Horiz. percent | 100.0 | 0 | 8.8 | 0.2 | 11.0 | 20.0 | 80.0 |
| Sherman-Denison (41): | | | | | | | |
| Students | 16,815 | 0 | 1,874 | 0 | 16 | 1,890 | 14,925 |
| Horiz. percent | 100.0 | 0 | 11.1 | 0 | 0.1 | 11.2 | 88.8 |
| Teachers | 714 | 0 | 43 | 0 | 0 | 43 | 671 |
| Horiz. percent | 100.0 | 0 | 6.0 | 0 | 0 | 6.0 | 94.0 |
| Texarkana, Tex.-Ark. (48): | | | | | | | |
| Students | 21,348 | 6 | 6,147 | 4 | 36 | 6,193 | 15,155 |
| Horiz. percent | 100.0 | 0 | 28.8 | 0 | 0.2 | 29.0 | 71.0 |
| Teachers | 887 | 0 | 209 | 0 | 0 | 209 | 678 |
| Horiz. percent | 100.0 | 0 | 23.6 | 0 | 0 | 23.6 | 76.4 |
| Tyler (53): | | | | | | | |
| Students | 22,625 | 0 | 7,003 | 17 | 118 | 7,138 | 15,487 |
| Horiz. percent | 100.0 | 0 | 31.0 | 0.1 | 0.5 | 31.5 | 68.5 |
| Teachers | 974 | 1 | 253 | 4 | 4 | 262 | 712 |
| Horiz. percent | 100.0 | 0.1 | 26.0 | 0.4 | 0.4 | 26.9 | 73.1 |
| Waco (72): | | | | | | | |
| Students | 31,202 | 11 | 6,549 | 23 | 2,606 | 9,189 | 22,013 |
| Horiz. percent | 100.0 | 0 | 21.0 | 0.1 | 8.4 | 29.5 | 70.5 |
| Teachers | 1,407 | 0 | 283 | 1 | 5 | 289 | 1,118 |
| Horiz. percent | 100.0 | 0 | 20.1 | 0.1 | 0.4 | 20.5 | 79.5 |
| Wichita Falls (53): | | | | | | | |
| Students | 26,519 | 40 | 2,578 | 56 | 1,389 | 4,063 | 22,456 |
| Horiz. percent | 100.0 | 0.2 | 9.7 | 0.2 | 5.2 | 15.3 | 84.7 |
| Teachers | 1,154 | 2 | 104 | 0 | 4 | 110 | 1,044 |
| Horiz. percent | 100.0 | 0.2 | 9.0 | 0 | 0.3 | 9.5 | 90.5 |
| Total (2.671): | | | | | | | |
| Students | 1,871,713 | 1,700 | 282,730 | 3,198 | 375,649 | 663,277 | 1,208,436 |
| Horiz. percent | 100.0 | 0.1 | 15.1 | 0.2 | 20.1 | 35.4 | 64.6 |
| Teachers | 75,341 | 29 | 9,556 | 63 | 3,976 | 13,625 | 61,716 |
| Horiz. percent | 100.0 | 0 | 12.7 | 0.1 | 5.3 | 18.1 | 81.9 |
| Utah: | | | | | | | |
| Ogden (57): | | | | | | | |
| Students | 35,867 | 206 | 621 | 273 | 2,029 | 3,129 | 32,738 |
| Horiz. percent | 100.0 | 0.6 | 1.7 | 0.8 | 5.7 | 8.7 | 91.3 |
| Teachers | 1,358 | 0 | 9 | 10 | 1 | 20 | 1,338 |
| Horiz. percent | 100.0 | 0 | 0.7 | 0.7 | 0.1 | 1.5 | 98.5 |
| Provo-Orem (71): | | | | | | | |
| Students | 35,401 | 332 | 0 | 64 | 334 | 730 | 34,671 |
| Horiz. percent | 100.0 | 0.9 | 0 | 0.2 | 0.9 | 2.1 | 97.9 |
| Teachers | 1,237 | 0 | 0 | 2 | 0 | 2 | 1,235 |
| Horiz. percent | 100.0 | 0 | 0 | 0.2 | | 0.2 | 99.8 |

1968 SCHOOL SURVEY—ESTIMATED STUDENTS AND TEACHERS IN SMSA'S (TOTALS)—Continued

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| Utah—Continued | | | | | | | |
| Salt Lake City (215): | | | | | | | |
| Students | 159,805 | 756 | 795 | 1,017 | 5,852 | 8,420 | 151,385 |
| Horiz. percent | 100.0 | 0.5 | 0.5 | 0.6 | 3.7 | 5.3 | 94.7 |
| Teachers | 5,809 | 1 | 3 | 22 | 19 | 45 | 5,764 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0.4 | 0.3 | 0.8 | 99.2 |
| Total (343): | | | | | | | |
| Students | 231,073 | 1,294 | 1,416 | 1,354 | 8,215 | 12,279 | 218,794 |
| Horiz. percent | 100.0 | 0.6 | 0.6 | 0.6 | 3.6 | 5.3 | 94.7 |
| Teachers | 8,404 | 1 | 12 | 34 | 20 | 67 | 8,337 |
| Horiz. percent | 100.0 | 0 | 0.1 | 0.4 | 0.2 | 0.8 | 99.2 |
| Virginia: | | | | | | | |
| Lynchburg (62): | | | | | | | |
| Students | 27,497 | 1 | 7,423 | 16 | 12 | 7,452 | 20,045 |
| Horiz. percent | 100.0 | 0 | 27.0 | 0.1 | 0 | 27.1 | 72.9 |
| Teachers | 1,169 | 0 | 284 | 1 | 0 | 285 | 884 |
| Horiz. percent | 100.0 | 0 | 24.3 | 0.1 | 0 | 24.4 | 75.6 |
| Newport News-Hampton (87): | | | | | | | |
| Students | 68,670 | 33 | 20,339 | 241 | 248 | 20,861 | 47,809 |
| Horiz. percent | 100.0 | 0 | 29.6 | 0.4 | 0.4 | 30.4 | 69.6 |
| Teachers | 2,767 | 0 | 772 | 0 | 0 | 772 | 1,995 |
| Horiz. percent | 100.0 | 0 | 27.9 | 0 | 0 | 27.9 | 72.1 |
| Norfolk-Portsmouth (182): | | | | | | | |
| Students | 148,690 | 281 | 48,930 | 679 | 511 | 50,401 | 98,289 |
| Horiz. percent | 100.0 | 0.2 | 32.9 | 0.5 | 0.3 | 33.9 | 66.1 |
| Teachers | 5,819 | 2 | 1,663 | 2 | 3 | 1,670 | 4,149 |
| Horiz. percent | 100.0 | 0 | 28.6 | 0 | 0.1 | 28.7 | 71.3 |
| Richmond (168): | | | | | | | |
| Students | 114,573 | 51 | 36,760 | 114 | 60 | 36,985 | 77,588 |
| Horiz. percent | 100.0 | 0 | 32.1 | 0.1 | 0.1 | 32.3 | 67.7 |
| Teachers | 4,820 | 1 | 1,315 | 0 | 5 | 1,321 | 3,499 |
| Horiz. percent | 100.0 | 0 | 27.3 | 0 | 0.1 | 27.4 | 7.26 |
| Roanoke (73): | | | | | | | |
| Students | 40,250 | 5 | 5,677 | 6 | 6 | 5,694 | 34,556 |
| Horiz. percent | 100.0 | 0 | 14.1 | 0 | 0 | 14.1 | 85.9 |
| Teachers | 1,593 | 0 | 177 | 1 | 1 | 179 | 1,414 |
| Horiz. percent | 100.0 | 0 | 11.1 | 0.1 | 0.1 | 11.2 | 88.8 |
| Total (855): | | | | | | | |
| Students | 602,394 | 496 | 132,322 | 2,004 | 2,045 | 136,867 | 465,528 |
| Horiz. percent | 100.0 | 0.1 | 22.0 | 0.3 | 0.3 | 22.7 | 77.3 |
| Teachers | 24,799 | 8 | 4,604 | 12 | 28 | 4,653 | 20,146 |
| Horiz. percent | 100.0 | 0 | 18.6 | 0 | 0.1 | 18.8 | 81.2 |
| Washington: | | | | | | | |
| Seattle-Everett (515): | | | | | | | |
| Students | 330,715 | 1,972 | 11,224 | 6,042 | 2,537 | 21,775 | 308,940 |
| Horiz. percent | 100.0 | 0.6 | 3.4 | 1.8 | 0.8 | 6.6 | 93.4 |
| Teachers | 12,896 | 16 | 185 | 208 | 22 | 431 | 12,465 |
| Horiz. percent | 100.0 | 0.1 | 1.4 | 1.6 | 0.2 | 3.3 | 96.7 |
| Spokane (126): | | | | | | | |
| Students | 62,054 | 428 | 760 | 483 | 283 | 1,954 | 60,100 |
| Horiz. percent | 100.0 | 0.7 | 1.2 | 0.8 | 0.5 | 3.1 | 96.9 |
| Teachers | 2,361 | 4 | 8 | 7 | 4 | 23 | 2,338 |
| Horiz. percent | 100.0 | 0.2 | 0.3 | 0.3 | 0.2 | 1.0 | 99.0 |
| Tacoma (172): | | | | | | | |
| Students | 93,174 | 788 | 4,961 | 1,779 | 758 | 8,286 | 84,888 |
| Horiz. percent | 100.0 | 0.8 | 5.3 | 1.9 | 0.8 | 8.9 | 91.1 |
| Teachers | 3,576 | 6 | 69 | 22 | 11 | 108 | 3,486 |
| Horiz. percent | 100.0 | 0.2 | 1.9 | 0.6 | 0.3 | 3.0 | 97.0 |
| Total (866): | | | | | | | |
| Students | 516,835 | 3,296 | 17,090 | 8,394 | 3,666 | 32,446 | 484,389 |
| Horiz. percent | 100.0 | 0.6 | 3.3 | 1.6 | 0.7 | 6.3 | 93.7 |
| Teachers | 19,962 | 30 | 268 | 246 | 37 | 581 | 19,381 |
| Horiz. percent | 100.0 | 0.2 | 1.3 | 1.2 | 0.2 | 2.9 | 97.1 |
| West Virginia: | | | | | | | |
| Charleston (148): | | | | | | | |
| Students | 56,118 | 25 | 3,548 | 57 | 26 | 3,656 | 52,462 |
| Horiz. percent | 100.0 | 0 | 6.3 | 0.1 | 0 | 6.5 | 93.5 |
| Teachers | 2,179 | 1 | 142 | 1 | 1 | 145 | 2,034 |
| Horiz. percent | 100.0 | 0 | 6.5 | 0 | 0 | 6.7 | 93.3 |
| Huntington-Ashland, W. Va.-Ky.-Ohio (150): | | | | | | | |
| Students | 57,527 | 9 | 1,754 | 11 | 12 | 1,786 | 55,741 |
| Horiz. percent | 100.0 | 0 | 3.0 | 0 | 0 | 3.1 | 96.9 |
| Teachers | 2,333 | 0 | 29 | 1 | 0 | 30 | 2,303 |
| Horiz. percent | 100.0 | 0 | 1.2 | 0 | 0 | 1.3 | 98.7 |
| Wheeling, W. Va.-Ohio (95): | | | | | | | |
| Students | 33,264 | 12 | 953 | 30 | 11 | 1,006 | 32,258 |
| Horiz. percent | 100.0 | 0 | 2.9 | 0.1 | 0 | 3.0 | 97.0 |
| Teachers | 1,316 | 0 | 15 | 0 | 0 | 15 | 1,301 |
| Horiz. percent | 100.0 | 0 | 1.1 | 0 | 0 | 1.1 | 98.9 |
| Total (324): | | | | | | | |
| Students | 119,802 | 43 | 5,632 | 96 | 56 | 5,827 | 113,975 |
| Horiz. percent | 100.0 | 0 | 4.7 | 0.1 | 0 | 4.9 | 95.1 |
| Teachers | 4,866 | 2 | 191 | 2 | 2 | 197 | 4,669 |
| Horiz. percent | 100.0 | 0 | 3.9 | 0 | 0 | 4.0 | 96.0 |
| Wisconsin: | | | | | | | |
| Green Bay (76): | | | | | | | |
| Students | 34,040 | 556 | 13 | 16 | 76 | 661 | 33,379 |
| Horiz. percent | 100.0 | 1.6 | 0 | 0 | 0.2 | 1.9 | 98.1 |
| Teachers | 1,375 | 3 | 0 | 1 | 0 | 4 | 1,371 |
| Horiz. percent | 100.0 | 0.2 | 0 | 0.1 | 0 | 0.3 | 99.7 |
| Kenosha (45): | | | | | | | |
| Students | 25,011 | 21 | 708 | 29 | 500 | 1,258 | 23,753 |
| Horiz. percent | 100.0 | 0.1 | 2.8 | 0.1 | 2.0 | 5.0 | 95.0 |
| Teachers | 1,109 | 1 | 7 | 2 | 10 | 20 | 1,089 |
| Horiz. percent | 100.0 | 0.1 | 0.6 | 0.2 | 0.9 | 1.8 | 98.2 |
| Madison (124): | | | | | | | |
| Students | 60,595 | 34 | 640 | 162 | 110 | 946 | 59,649 |
| Horiz. percent | 100.0 | 0.1 | 1.1 | 0.3 | 0.2 | 1.6 | 98.4 |
| Teachers | 2,699 | 0 | 11 | 4 | 3 | 18 | 2,681 |
| Horiz. percent | 100.0 | 0 | 0.4 | 0.1 | 0.1 | 0.7 | 99.3 |

| State, SMSA, and number of schools | Total | American Indian | Negro | Oriental | Spanish American | Minority total | Other |
|---|---|---|---|---|---|---|---|
| **Wisconsin—Continued** | | | | | | | |
| Milwaukee (184): | | | | | | | |
| Students | 76,738 | 119 | 37 | 77 | 564 | 797 | 75,941 |
| Horiz. percent | 100.0 | 0.2 | 0 | 0.1 | 0.7 | 1.0 | 99.0 |
| Teachers | 3,591 | 1 | 1 | 2 | 2 | 6 | 3,585 |
| Horiz. percent | 100.0 | 0 | 0 | 0.1 | 0.1 | 0.2 | 99.8 |
| Racine (20): | | | | | | | |
| Students | 2,963 | 2 | 5 | 4 | 4 | 15 | 2,948 |
| Horiz. percent | 100.0 | 0.1 | 0.2 | 0.1 | 0.1 | 0.5 | 99.5 |
| Teachers | 128 | 0 | 1 | 0 | 0 | 1 | 127 |
| Horiz. percent | 100.0 | 0 | 0.8 | 0 | 0 | 0.8 | 99.2 |
| Total (476): | | | | | | | |
| Students | 208,753 | 839 | 1,413 | 295 | 1,262 | 3,809 | 204,944 |
| Horiz. percent | 100.0 | 0.4 | 0.7 | 0.1 | 0.6 | 1.8 | 98.2 |
| Teachers | 9,329 | 5 | 21 | 9 | 15 | 50 | 9,279 |
| Horiz. percent | 100.0 | 0.1 | 0.2 | 0.1 | 0.2 | 0.5 | 99.5 |
| U.S. Total (43,168): | | | | | | | |
| Students | 28,337,575 | 42,241 | 4,487,451 | 171,622 | 1,604,349 | 6,305,664 | 22,031,911 |
| Horiz. percent | 100.0 | 0.1 | 15.8 | 0.6 | 5.7 | 22.3 | 77.7 |
| Teachers | 1,154,046 | 573 | 114,300 | 4,941 | 10,872 | 130,686 | 1,023,359 |
| Horiz. percent | 100.0 | 0 | 9.9 | 0.4 | 0.9 | 11.3 | 88.7 |

Mr. RIBICOFF. Along that line, since the Senator from Alabama (Mr. ALLEN) has returned, I think the general figures on school integration ought to go into the RECORD too. These figures are fascinating and demonstrate the situation that caused me to raise the question of northern hypocrisy 14 months ago because I sensed then what was taking place. These figures from the Department of Health, Education and Welfare, together with the 1970 census figures, comprise one of the most significant social documents in this Nation.

These figures will be of interest to both northerners and southerners when they see what they represent. The figures now show that in the North only 27.7 percent of black students attend majority white schools, while in the South the figure is nearly half again as high, or 38.1 percent.

The Senator from Alabama asked whether it was not true that the South was making greater progress than the North generally. The answer is yes, the South has been making greater progress. Consider these additional figures. The percentage of blacks attending schools that were from 80 to 100 percent minority remained constant at 57.4 percent in the North from 1968 to 1970. In the South the percentage dropped from 78.8 percent to 41.7 percent.

When we come to schools where blacks were in 100 percent minority schools, we find that from 1968 to 1970 the percentage of blacks attending such schools dropped from 12.3 percent to 11.9 percent in the North, but in the South in the same period the blacks in 100 percent minority schools dropped from 68 percent to 18.4 percent.

While the South has gone through a period of travail over the past 17 years, we in the North—all of us—have been insisting that they move faster and faster and faster. In many instances and in many areas in the South, certain school districts were dragging their feet. But while we were pointing our fingers at the South for their hesitancy, the situation was getting worse in the North and segregation was growing apace instead of decreasing.

I recognized 14 months ago when the Stennis amendment was considered that, if we were ever going to eliminate the hostility between the North and the South and join together to do what was needed in this country, we would have to stop pointing our fingers at the South and adopt a uniform policy for the entire Nation.

I was extremely shocked to find, after my support of the Stennis amendment, that wherever I went across this Nation to discuss the problems facing the country, the criticism leveled against me was not because of the proposal but because I, as a northerner, was supporting a proposal presented by the Senator from Mississippi (Mr. STENNIS). I would ask my audience if they knew Senator STENNIS. No, they did not know Senator STENNIS, but they knew he came from Mississippi, ergo, his proposal had to be bad. They did not know that Senator Stennis is a man who has the overwhelming respect of every Member of this body, North, South, East, and West.

I think it becomes important for all of us—the 100 Members of this body—who get to know one another and who come from different sections of the country, to rise against the prejudices of our constituents. We must not hesitate to tell our constituents that they may be wrong, that other people who come from other sections of the country have their problems, and that we must not question their sincerity when we make our points. We should try to understand each other and try to reconcile the differences between and among the 100 Members of this body, which means so much to every Member of the Senate.

There is no question that the distinguished Senator from Mississippi will introduce his amendment again. I shall support that amendment, and I hope that the amendment of the Senator from Mississippi will be adopted by this body, as it was adopted 14 months ago.

But what the Senator from Mississippi achieves by his amendment is merely a statement of a policy. There is nothing in the amendment that implements the policy. What I am now trying to achieve with my amendment is a national program—North, South, East, and West—where everyone is treated alike.

There are those who say, "Your proposal will take, when all is said and done, 14 years: The 2 years of the pilot program suggested by the Senator from Minnesota, the 2 years for planning by metropolitan areas, and the 10 years of implementation."

I say we must remember that this issue, dealing with emotions and hopes for the future, is extremely complex. We should remember that in 1954 some suggested we try to integrate a grade at a time. Others said, "You cannot take all that time." Yet here we are, 17 years later, still arguing about it. This problem is so vast, and we have lived with it so long, that if we can solve it in 14 years we will indeed be a fortunate country.

We must solve this problem, because we are facing accelerating divisiveness and increasing hatred in this country. All of us have an obligation and a duty as U.S. Senators to help end the divisions between the races, between the North and South, and between the suburbs and central cities.

Frankly, I know of nobody more capable of solving this problem than the U.S. Senate.

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

Mr. RIBICOFF. I am happy to yield to the Senator from Minnesota.

Mr. MONDALE. I think it is important to understand that the Senator's proposal requires something which the Supreme Court does not require. In other words, under no case that I have heard of has the 14th amendment rule against discrimination in a single district been interpreted to require a multidistrict remedy. The rule is that you look at a given school district, and you ask whether the children within that school district are separated due to official discrimination, and then some sort of remedy follows. But that remedy does not include distributing those children into other school districts, unless the court finds that the district lines themselves are drawn with a discriminatory purpose.

So, although the Senator's proposal would take 12 years, in the absence of such a proposal it could well take 120 years, and more likely than not, never happen at all. So I say that the Senator's proposal, involving a new, dramatic, and courageous remedy, is the most hopeful I have seen.

Mr. RIBICOFF. Mr. President, may I add that what I am trying to say to my fellow Senators is this: We have a legislative obligation. When the legislative body of this great country of which we are a part fails to provide a national policy for a problem that is deep seated

and divides the country socially, economically, or politically, that measure, in one way or another, heads for the Supreme Court. The Executive and the legislature have been fearful and timid about trying to solve the problem of integration. By ducking it we have placed the problem on the back of the Supreme Court and made the Supreme Court the scapegoat for our unwillingness to courageously come to grips with this question.

The Supreme Court now has a number of cases before it that raise the question of de facto segregation. I do not know how the Court will act. I cannot anticipate what those nine men will do. But I would be shocked if the Supreme Court ducked this issue. The Supreme Court ruled in the Brown case against "separate but equal," and they moved against one section of this country. For the life of me, I can see no difference as far as discrimination is concerned between de facto and de jure segregation. When you take a child in the fourth grade, whether it is in Hartford, Conn., New York City, Biloxi, Miss., or Durham, N.C., that black child does not know whether he is being de factoed or de jured. As far as he knows, if there is discrimination, he is a victim of it, and the fine distinction between de facto and de jure does not make much difference.

The problem the Supreme Court faces, and I sympathize with them, is this: In 1954, in Brown against Board of Education, the Supreme Court plowed new ground. I would say, if I were asked what the Warren court stood for, that the Brown case would probably be one of the landmark decisions that would distinguish the Warren court.

Should the Supreme Court fail—and they have been considering these cases now for a long time—to address themselves courageously to de facto segregation as they did to de jure, for all practical purposes the decision in Brown against Board of Education would become a nullity. The South is learning from the North about how to segregate housing. Southern black central cities are going the way of the northern black central cities, and white suburbs in the South going the way of northern white suburbs. The South, like the rest of the country, is dividing on the so-called de facto basis. In the Brown case, the Supreme Court struck down the doctrine of separate but equal. If they say now that de facto segregation is perfectly all right, the Supreme Court will condemn blacks in this country to a situation where they will be separate but not equal. The facts clearly establish this. During these 17 years there has been a galloping exodus by whites from the cities of America to the suburbs. The cities have become blacker and blacker, and the jobs have been going from the cities into the suburbs. During the past two decades, 80 percent of all jobs created in this country have been created in the suburbs. The cities have become poor, without jobs, and full of economic, social, and political problems. All you have to do is read the papers day in and day out and watch the television to realize that.

If the Supreme Court, on the other hand, were now to handle de facto segregation as it did de jure earlier, it would be a progressive step. But it should not be necessary for the Supreme Court to take us off the hook. We have a legislative problem, and I would like to see the President of the United States and the U.S. Senate take the matter into their own hands, look at the problem that faces us as a people, and write a new chapter in the history of this country on the floor of the Senate as we consider the present bill.

I am grateful for the support of the Senator from Minnesota, who has worked so hard. I value his judgment and his understanding, and I hope that other Members of this body who failed to support the Stennis amendment 14 months ago will now support not only the Stennis amendment, but the Ribicoff amendment as well.

My feeling is that if we agreed to both the Stennis amendment and the Ribicoff amendment together, we would then have a national policy that would cover the entire Nation. We could then begin working toward the solution of the problems of a separatist society. There is a great opportunity for all of us in this body, by supporting both the Stennis and Ribicoff amendments, to exercise the leadership expected of the U.S. Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PELL. Mr. President, I suggest the absence of a quoroum.

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.

## REFERRAL OF A COMMUNICATION FROM THE SECRETARY OF TRANSPORTATION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a communication at the desk from the Secretary of Transportation relative to the Transportation Revenue Sharing Act of 1971 be multiply referred to the Committee on Commerce; the Committee on Banking, Housing, and Urban Affairs; the Committee on Finance; and the Committee on Public Works for their consideration of the subject matters falling within their respective jurisdictions.

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

## REFERRAL OF A COMMUNICATION FROM THE ENVIRONMENTAL PROTECTION AGENCY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a communication from the Environmental Protection Agency be jointly referred to the Committees on Public Works and Commerce, to accompany the original message of the President of February 8, 1971, which was also referred by unanimous consent.

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

## ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. tomorrow.

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

## ORDER FOR RECOGNITION OF SENATORS BUCKLEY AND BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the remarks by the able majority leader, under the order previously entered recognizing the majority leader for 15 minutes, the distinguished Senator from New York (Mr. BUCKLEY) be recognized for 15 minutes; that he be followed by the distinguished senior Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes, the recognition of both Senators to occur prior to the recognition of the able Senator from Iowa (Mr. HUGHES) under the order previously entered.

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

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of Senators under orders previously entered, there be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

## ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that on tomorrow, at the conclusion of the period for the transaction of routine morning business, the Chair lay before the Senate the unfinished business, S. 1557.

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 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.

## EXTENSION OF TIME TOMORROW UNDER RULE VIII

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow the Pastore rule, paragraph

3 of rule VIII of the Standing Rules of the Senate, be extended for a period of 5 hours, rather than the normal 3 hours.

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

## PROGRAM FOR TUESDAY

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. Immediately following the recognition of the two leaders under the standing order, the distinguished majority leader will be recognized for not to exceed 15 minutes, to be followed by the distinguished junior Senator from New York (Mr. BUCKLEY) for not to exceed 15 minutes, to be followed by the distinguished senior Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes, to be followed by the distinguished junior Senator from Iowa (Mr. HUGHES), for not to exceed 15 minutes.

At the conclusion of the recognition of Senators under the orders previously entered, there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes, following which the Chair will lay before the Senate the unfinished business (S. 1557), a bill to provide financial assistance to local educational agencies.

## ADJOURNMENT TO 9:45 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 9:45 tomorrow morning.

The motion was agreed to; and (at 4 o'clock and 12 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, April 20, 1971, at 9:45 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 19, 1971:

### DIPLOMATIC AND FOREIGN SERVICE

Bernard Zagorin, of Virginia, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

### U.S. AIR FORCE

The following officers for appointment in the Air Force Reserve to the grade indicated, under the provisions of chapters 35 and 837, title X, United States Code:

*To be major general*

Brig. Gen. Earl O. Anderson, [redacted], Air Force Reserve.

Brig. Gen. Russell F. Gustke, [redacted], Air Force Reserve.

Brig. Gen. Maurice I. Marks, [redacted], Air Force Reserve.

Brig. Gen. Evelle J. Younger, [redacted], Air Force Reserve.

*To be brigadier general*

Col. Richard Bodycombe, [redacted], Air Force Reserve.

Col. Byron K. Boettcher, [redacted], Air Force Reserve.

Col. Arthur W. Clark, [redacted], Air Force Reserve.

Col. William J. Crandall, [redacted], Air Force Reserve.

Col. Mortimer I. Gordon, [redacted], Air Force Reserve.

Col. John H. Grimm, [redacted], Air Force Reserve.

Col. William G. Hathaway, [redacted], Air Force Reserve.

Col. William Lyon, [redacted], Air Force Reserve.

Col. Oscar D. Olson, [redacted], Air Force Reserve.

Col. John S. Warner, [redacted], Air Force Reserve.

Col. William A. Willis, [redacted], Air Force Reserve.

I nominate the following officers for appointment as Reserve commissioned officers in the U.S. Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title X, United States Code:

*To be major general*

Brig. Gen. Clarence E. Atkinson, [redacted], Delaware Air National Guard.

*To be brigadier general*

Col. George N. Masterson, [redacted], Oklahoma Air National Guard.

Col. Raymond C. Meyer, [redacted], New York Air National Guard.

Col. Walter B. Staudt, [redacted], Texas Air National Guard.

Col. Stanley L. Vihtelic, [redacted], Michigan Air National Guard.

Col. Roland R. Wright, [redacted], Utah Air National Guard.

### U.S. NAVY

Rear Adm. Worth H. Bagley, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title X, United States Code, section 5321, for appointment to the grade of vice admiral while so serving.

### U.S. AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title X, United States Code, as amended. All officers are subject to physical examination required by law.

*Major to lieutenant colonel*

LINE OF THE AIR FORCE

Aaronson, Allan E., [redacted]
Adams, Robert E., [redacted]
Adams, Vincent O., Jr., [redacted]
Addor, Henry S., [redacted]
Agosta, Howard A., [redacted]
Agosta, Joseph J., [redacted]
Akins, George D., Jr., [redacted]
Aldrin, Edwin E., Jr., [redacted]
Alexander, Sigmund, [redacted]
Allard, Joseph A., [redacted]
Allen, John E., [redacted]
Allison, Clifford, Jr., [redacted]
Allison, Jack G., [redacted]
Allison, John M., [redacted]
Allison, John V., [redacted]
Allison, William B., [redacted]
Along', Frederic F., [redacted]
Aloy, Richard N., [redacted]
Amado, Frank B., Jr., [redacted]
Ames, Henry P., Jr., [redacted]
Andersen, Robert N., [redacted]
Andersen, Roger E., [redacted]
Anderson, Charles D., [redacted]
Anderson, Loren A., [redacted]
Anderson, Paul R., [redacted]
Andrews, David B., [redacted]
Andrichak, John J., [redacted]
Anthony, Thomas P., [redacted]
Apostalon, Daniel G., [redacted]
Appleby, Phillip E., [redacted]
Apter, Ethel E., [redacted]
Areen, Frank M., [redacted]
Armbruster, Owen R., [redacted]
Artz, Robert B., [redacted]
Ash, John R., [redacted]
Astrella, Ralph J., [redacted]
Atwood, Robert L., [redacted]
Aubry, George, Jr., [redacted]
Austin, John W., [redacted]
Avinger, Isaac E., [redacted]
Babbitt, Louie A., [redacted]
Babcock, Earl L., [redacted]
Bach, Maurice D., [redacted]
Bach, Roy E., [redacted]
Bacon, Walter J., II, [redacted]
Baer, Allan R., [redacted]
Bagby, Joseph L., [redacted]
Bailey, Burt S., [redacted]
Bailey, George W., [redacted]
Baird, Weldon R., [redacted]
Baird, Willet J., Jr., [redacted]
Baker, Coleman L., [redacted]
Baker, Henry F., [redacted]
Baker, Joseph H., Jr., [redacted]
Baker, Kenneth G., [redacted]
Baker, Robert L., [redacted]
Baldwin, Robert C., [redacted]
Ballard, John G., Jr., [redacted]
Baltz, Dickey L., [redacted]
Baltzell, Leonard F., [redacted]
Bancroft, Earl F., [redacted]
Bardnell, Edward E., [redacted]
Barker, Kendall S., [redacted]
Barker, Stewart G., [redacted]
Barnes, Daniel S., [redacted]
Barnes, Jack L., [redacted]
Barnes, John F., [redacted]
Barnes, Oswald E., [redacted]
Barrett, Joseph M., [redacted]
Barrett, Ralph W., [redacted]
Barrett, William R., [redacted]
Barry, William D., [redacted]
Bartolich, Eugene, [redacted]
Bass, Thomas C., [redacted]
Baulch, Henry L., [redacted]
Baumgardner, Budd E., [redacted]
Bazley, Robert W., [redacted]
Beatie, Billingsley, [redacted]
Beatty, Bernard L., [redacted]
Beazley, Curtis E., [redacted]
Bebout, Charles W., [redacted]
Beebe, Wallace E., [redacted]
Beery, Rhoderick J., [redacted]
Beitsch, Donald E., [redacted]
Belinski, Edward J., [redacted]
Bender, Jack N., [redacted]
Bendorf, Harry H., [redacted]
Benefield, Bruce S., [redacted]
Benham, Joseph S., [redacted]
Benjovsky, Victor C., [redacted]
Benn, Bohden, [redacted]
Bennett, Donald W., [redacted]
Bennett, John H., [redacted]
Bennington, J. T., [redacted]
Bennink, William H., [redacted]
Bento, William L., [redacted]
Bepko, Stephen J., [redacted]
Beranek, Orville J., [redacted]
Berdoy, Ronald A., [redacted]
Berg, Wallace S., [redacted]
Berga, John O., [redacted]
Berher, Joseph J., [redacted]
Bernich, Kirby A., [redacted]
Berrie, William M., [redacted]
Berry, Clarence K., [redacted]
Berry, Eugene, [redacted]
Berry, Schuyler P., Jr., [redacted]
Bialas, Howard S., [redacted]
Bielefeldt, Vilas L., [redacted]
Bienert, Albert R., [redacted]
Bierman, Casper S., [redacted]
Biggers, Edgar W., Jr., [redacted]
Biggs, Walter J., Jr., [redacted]
Billingslea, Clement D., [redacted]
Binkin, Martin, [redacted]
Birch, Paul R., [redacted]
Bird, John F., [redacted]
Bischofs, Hans, [redacted]
Bishop, Norman C., [redacted]
Bissell, Robert J., [redacted]
Bittinger, Dale A., [redacted]
Bixby, Kenneth E., Jr., [redacted]
Blackbird, David P., [redacted]
Blackburn, Robert M., [redacted]
Blackmon, Leon A., [redacted]
Blaisdell, Morton C., [redacted]
Blan, Kennith W., [redacted]
Blanchard, Robert G., [redacted]
Blankinship, Albert B., [redacted]
Blincow, Dean R., [redacted]
Block, Gerald A., [redacted]

Block, Robert L., xxx-xx-xxxx
Blodgett, Donald B., xxx-xx-xxxx
Bloom, William M., xxx-xx-xxxx
Bloomfield, George A., Jr., xxx-xx-xxxx
Blume, George D., xxx-xx-xxxx
Bobbitt, William M., xxx-xx-xxxx
Bogle, Chester V., Jr., xxx-xx-xxxx
Bohe, Edward E., xxx-xx-xxxx
Bolado, Victor H., xxx-xx-xxxx
Boldi, George, xxx-xx-xxxx
Bonczek, Roman J., Jr., xxx-xx-xxxx
Bond, Jack D. xxx-xx-xxxx
Bonwit, Barry L., xxx-xx-xxxx
Bookout, Bertram E., Jr. xxx-xx-xxxx
Booth, Harry J., xxx-xx-xxxx
Border, George F., xxx-xx-xxxx
Borowski, Eugene C., xxx-xx-xxxx
Bosworth, Alvin L., xxx-xx-xxxx
Bowden, Jackson H. xxx-xx-xxxx
Bowe, Thomas M., xxx-xx-xxxx
Bowen, Donald J., xxx-xx-xxxx
Bowlin, Robert A., xxx-xx-xxxx
Bowman, Howard L., xxx-xx-xxxx
Bowman, Lloyd D., Jr., xxx-xx-xxxx
Box, George B., xxx-xx-xxxx
Boyd, John R. xxx-xx-xxxx
Boyle, James M., xxx-xx-xxxx
Brackett, Wentworth xxx-xx-xxxx
Bradford, John A. xxx-xx-xxxx
Braly, Harold C., xxx-xx-xxxx
Brame, Horace L., xxx-xx-xxxx
Brandt, John S. xxx-xx-xxxx
Brantley, Arnim L. xxx-xx-xxxx
Breazeale, Paul C. xxx-xx-xxxx
Breden, Ralph E. xxx-xx-xxxx
Breeding, Kenneth W. xxx-xx-xxxx
Brennan, James C., Jr. xxx-xx-xxxx
Brennen, Harold J. xxx-xx-xxxx
Bretzke, Lou E. xxx-xx-xxxx
Brewer, Donald A., xxx-xx-xxxx
Bridges, Garland D., Jr. xxx-xx-xxxx
Briggs, James E., xxx-xx-xxxx
Briggs, Morris F., xxx-xx-xxxx
Briley, James R., xxx-xx-xxxx
Brinson, James K., xxx-xx-xxxx
Brockmeyer, William D., xxx-xx-xxxx
Broome, Lees, xxxx
Broussard, James H. xxx-xx-xxxx
Brown, Donald D., xxx-xx-xxxx
Brown, Jack N., xxx-xx-xxxx
Brown, James R., xxx-xx-xxxx
Brown, James L., xxx-xx-xxxx
Brown, John D., xxx-xx-xxxx
Brown, Julius W., Jr., xxx-xx-xxxx
Brown, Larry F., xxx-xx-xxxx
Brown, Norma E., xxx-xx-xxxx
Brown, Ogden, Jr., xxx-xx-xxxx
Brown, William E., Jr. xxx-xx-xxxx
Brown, William R., xxx-xx-xxxx
Brown, William S., Jr. xxx-xx-xxxx
Browning, Howard J., xxx-xx-xxxx
Browning, John W., xxx-xx-xxxx
Brumbeloe, James T. xxx-xx-xxxx
Bruton, Albert T. xxx-xx-xxxx
Bruton, Thomas B. xxx-xx-xxxx
Bryniarski, Albert F., Jr. xxx-xx-xxxx
Bucher, Tilman K. xxx-xx-xxxx
Budd, Roger, Jr., xxx-xx-xxxx
Budner, John R. xxx-xx-xxxx
Buehler, James W. xxx-xx-xxxx
Buettgenbach, Max A. xxx-xx-xxxx
Buffington, Lewis C., Jr., xxx-xx-xxxx
Buhler, Theodore W., xxx-xx-xxxx
Bull, Herbert R., xxx-xx-xxxx
Burgess, George M., xxx-xx-xxxx
Burgy, William P., xxx-xx-xxxx
Burkardt, Edward A. xxx-xx-xxxx
Burkley, Edward L., xxx-xx-xxxx
Burnett, James B. xxx-xx-xxxx
Burns, John W. xxx-xx-xxxx
Burns, Robert L., xxx-xx-xxxx
Burrell, Francis A., xxx-xx-xxxx
Burri, Raymond A. xxx-xx-xxxx
Burtt, Stuart E. xxx-xx-xxxx
Burwell, William D., xxx-xx-xxxx
Buschman, Glen W. xxx-xx-xxxx
Bush, David A., xxx-xx-xxxx
Bush, Harry L., xxx-xx-xxxx
Bush, James O. xxx-xx-xxxx
Bush, William H., xxx-xx-xxxx
Bushey, Warren E., xxx-xx-xxxx
Buss, Robert H., xxx-xx-xxxx
Bussell, Henry C., xxx-xx-xxxx
Butler, Paul A., xxx-xx-xxxx
Butts, Duncan R., xxx-xx-xxxx
Butz, William J., xxx-xx-xxxx
Bye, Donald R., xxx-xx-xxxx
Byer, Harry J., xxx-xx-xxxx
Bynum, Paul H., xxx-xx-xxxx
Byrne John J., xxx-xx-xxxx
Cabaniss, Robert J. xxx-xx-xxxx
Cady, Robert P., xxx-xx-xxxx
Cagle, James D., xxx-xx-xxxx
Caldwell, Alonza L., xxx-xx-xxxx
Callahan, Drury xxx-xx-xxxx
Callen, Lonnie E., xxx-xx-xxxx
Cameron, Robert L., xxx-xx-xxxx
Campbell, Charles R., xxx-xx-xxxx
Campbell, Robert I., xxx-xx-xxxx
Cannon, Lawrence F., xxx-xx-xxxx
Cantrell, George K., xxx-xx-xxxx
Capers Willi T., III xxx-xx-xxxx
Caple, John W., xxx-xx-xxxx
Caraher, Richard R., xxx-xx-xxxx
Carcich, Marvin J. xxx-xx-xxxx
Cardwell, Thomas J. M., xxx-xx-xxxx
Carlile, Homer J., xxx-xx-xxxx
Carlson, Howard P., xxx-xx-xxxx
Carman, Kenneth R., xxx-xx-xxxx
Carnahan, Kenneth R. xxx-xx-xxxx
Carpenter, Wilbur L. xxx-xx-xxxx
Carter, Robert D., xxx-xx-xxxx
Carus, Glenn A., xxx-xx-xxxx
Casella, Peter J., Jr. xxx-xx-xxxx
Casey, James M., xxx-xx-xxxx
Cass, Robert L. xxx-xx-xxxx
Cassinotti, Joseph M., Jr. xxx-xx-xxxx
Castellina, Valentino xxx-xx-xxxx
Casterlin, Harry B., Jr. xxx-xx-xxxx
Castleman, Stanle A. xxx-xx-xxxx
Catlin, Frank S. xxx-xx-xxxx
Catlin, John E., Jr. xxx-xx-xxxx
Caudle, Ralph E. xxx-xx-xxxx
Caudle, Ted W., xxx-xx-xxxx
Caulfield, Patrick H. xxx-xx-xxxx
Cerny, Joseph P. xxx-xx-xxxx
Chabbott, George H. xxx-xx-xxxx
Chag, Steve S., xxx-xx-xxxx
Chambers, Canty P., Jr. xxx-xx-xxxx
Chaney, Hubert F. xxx-xx-xxxx
Chapman, D. L., xxx-xx-xxxx
Chapman, Henry A., xxx-xx-xxxx
Chapman, John H. xxx-xx-xxxx
Chapman, Ray F. xxx-xx-xxxx
Charette, Franklin M. xxx-xx-xxxx
Chatfield, William E., xxx-xx-xxxx
Chellman, Chester E., Jr. xxx-xx-xxxx
Chick, Robert L., Jr., xxx-xx-xxxx
Christner, Wallace G. xxx-xx-xxxx
Christofferson, Donald D. xxx-xx-xxxx
Church, Joe L., xxx-xx-xxxx
Churchill, Richard M. xxx-xx-xxxx
Clance, James R., xxx-xx-xxxx
Clanton, Charles C., Jr. xxx-xx-xxxx
Clapsaddle, Charles H., xxx-xx-xxxx
Clark, Donald L., xxx-xx-xxxx
Clark, Edward P., xxx-xx-xxxx
Clark, Ray E., xxx-xx-xxxx
Cleland, Paul S., Jr. xxx-xx-xxxx
Clelland, Donald M., xxx-xx-xxxx
Clem, William J., xxx-xx-xxxx
Clement, Jack D., xxx-xx-xxxx
Clifford, Philip G., xxx-xx-xxxx
Cline, Theodore, Jr. xxx-xx-xxxx
Clontz, Charles B., xxx-xx-xxxx
Clouse, Leland F., xxx-xx-xxxx
Coady, John S., Jr., xxx-xx-xxxx
Coats, J. C., xxx-xx-xxxx
Cochrane, Albert C., Jr. xxx-xx-xxxx
Cochrane, Charles J. xxx-xx-xxxx
Coen, Charles J. xxx-xx-xxxx
Coffee, Kenneth H., xxx-xx-xxxx
Cogburn, John B., xxx-xx-xxxx
Cole, Donald K., xxx-xx-xxxx
Cole, Donald C., xxx-xx-xxxx
Cole, Raymond E., xxx-xx-xxxx
Cole, Richard R., xxx-xx-xxxx
Coley, Ray H., xxx-xx-xxxx
Collings, Oscar E., xxx-xx-xxxx
Collins, Earl J., xxx-xx-xxxx
Collins, Harry R., xxx-xx-xxxx
Comerford, John R., Jr. xxx-xx-xxxx
Compton, Laurence B. xxx-xx-xxxx
Conley, Kenneth H., xxx-xx-xxxx
Conlin, Thomas P. xxx-xx-xxxx
Connolly, John M., Jr. xxx-xx-xxxx
Connors, Donald F. xxx-xx-xxxx
Conrad, David M., xxx-xx-xxxx
Conti, Julius R., Jr. xxx-xx-xxxx
Cook, Daniel E., xxx-xx-xxxx
Cook, David L., xxx-xx-xxxx
Cook, James A., xxx-xx-xxxx
Cooke, Gerald E., xxx-xx-xxxx
Cooper, James P., xxx-xx-xxxx
Copas, Charles B., xxx-xx-xxxx
Cope, Robert C., xxx-xx-xxxx
Corbitt, Gilland W. xxx-xx-xxxx
Corcoran, Daniel G. xxx-xx-xxxx
Corea, Dominick J. xxx-xx-xxxx
Corey, Michael L., xxx-xx-xxxx
Corkery, Eugene F. xxx-xx-xxxx
Cornetti, Robert A. xxx-xx-xxxx
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Stephenson, James R. xxx-xx-xxxx.
Stevens, Henry L., Jr. xxx-xx-xxxx.
Stevens, John T., Jr. xxx-xx-xxxx.
Stevens, Richard H. xxx-xx-xxxx.

Stevens, Walter C., Jr. xxx-xx-xxxx
Stevenson, Sharman R. xxx-xx-xxxx
Stewart, Donald W., Jr. xxx-xx-xxxx
Stewart, Ervin O., Jr. xxx-xx-xxxx
Stewart, Ervin C. xxx-xx-xxxx
Stewart, Gerald W. xxx-xx-xxxx
Stickney, Frank A. xxx-xx-xxxx
Stiegel, Raymond B. xxx-xx-xxxx
Stiles, David L. xxx-xx-xxxx
Stiles, Ralph W. xxx-xx-xxxx
Stillman, Albert E. xxx-xx-xxxx
Stimson, James S. xxx-xx-xxxx
St. John, Ernest A. xxx-xx-xxxx
Stockdell, Victor B. xxx-xx-xxxx
Stockman, David T. xxx-xx-xxxx
Stokum, Russell L. xxx-xx-xxxx
Story, Warren H. xxx-xx-xxxx
Stringer, William L. xxx-xx-xxxx
Stumpf, Charles J. xxx-xx-xxxx
Sullivan, William F. xxx-xx-xxxx
Sulser, Mayo B. xxx-xx-xxxx
Summerdur, Jos. E., Jr. xxx-xx-xxxx
Summers, Deane W. xxx-xx-xxxx
Summers, Robert L. xxx-xx-xxxx
Sumner, Darvel L. xxx-xx-xxxx
Sverha, Michael J. xxx-xx-xxxx
Swan, Robert B., Jr. xxx-xx-xxxx
Swanson, Thomas R., Jr. xxxx
Swearingen, Paul xxx-xx-xxxx
Sweeney, Daniel J. xxx-xx-xxxx
Sweeney, Mack D., Jr. xxx-xx-xxxx
Tackett, Edward J. xxx-xx-xxxx
Taft, Gordon G. xxx-xx-xxxx
Talbert, William H. xxx-xx-xxxx
Talley, Franklin G. xxx-xx-xxxx
Tarrant, Robert E. xxx-xx-xxxx
Tarver, William R. xxx-xx-xxxx
Tatsch, Clarence C. xxx-xx-xxxx
Taylor, Clyde T. xxx-xx-xxxx
Taylor, Harold L., Jr. xxx-xx-xxxx
Taylor, Ira T. xxx-xx-xxxx
Taylor, Jack W. xxx-xx-xxxx
Taylor, Jack M. xxx-xx-xxxx
Taylor, Richard N. xxx-xx-xxxx
Taylor, Robert H. xxx-xx-xxxx
Taylor, Stillman V. xxx-xx-xxxx
Taylor, Victor D. xxx-xx-xxxx
Teater, Charles W. xxx-xx-xxxx
Terry, Homer T. xxx-xx-xxxx
Thogersen, Alton J. xxx-xx-xxxx
Tholen, Lloyd A. xxx-xx-xxxx
Thomas, Ralph W. xxx-xx-xxxx
Thomas, Earle G., III xxx-xx-xxxx
Thomas, Will R., Jr. xxx-xx-xxxx
Thomas, Vernon C. xxx-xx-xxxx
Thomas, William E., Jr. xxx-xx-xxxx
Thomason, Jackson I. xxx-xx-xxxx
Thomason, John F. xxx-xx-xxxx
Thompson, Edwin E. xxx-xx-xxxx
Thompson, Johnny M. xxx-xx-xxxx
Thomson, Herman O. xxx-xx-xxxx
Thorne, Anthony S. xxx-xx-xxxx
Thresher, Russell W., Jr. xxx-xx-xxxx
Timmons, Robert A., Jr. xxx-xx-xxxx
Tinius, John O. xxx-xx-xxxx
Tinney, Robert E. xxx-xx-xxxx
Tocci, Vincent R. xxx-xx-xxxx
Toedt, Dell C. xxx-xx-xxxx
Tone, Myron L. xxx-xx-xxxx
Tourtellot, George P. xxx-xx-xxxx
Towne, Earle F., Jr. xxx-xx-xxxx
Tracy, Fred L. xxx-xx-xxxx
Trapani, Renato V. xxx-xx-xxxx
Travis, John T. xxx-xx-xxxx
Tribble, George S. xxx-xx-xxxx
Trost, Jack D. xxx-xx-xxxx
Trowbridge, Charles E. xxx-xx-xxxx
Trueheart, James L. xxx-xx-xxxx
Truesdell, Willard M. xxx-xx-xxxx
Tucker, Roy C., Jr. xxx-xx-xxxx
Tunis, William C. xxx-xx-xxxx
Turner, Albert N. xxx-xx-xxxx
Turner, Eldon K. xxx-xx-xxxx
Tuxhorn, William R. xxx-xx-xxxx
Tynan, George P. xxx-xx-xxxx
Tyndall, Robert H. xxx-xx-xxxx
Tyre, Ronald xxx-xx-xxxx
Ulrich, Myron D. xxx-xx-xxxx
Umstead, Stanley M., Jr. xxx-xx-xxxx
Vaitekunas, Anthony M. xxx-xx-xxxx
Valdez, Bobby G. xxx-xx-xxxx
Valention, Rudolph A. xxx-xx-xxxx
Vandenberg, Hoyt S., Jr. xxx-xx-xxxx
Vandenheuvel, Robert J. xxx-xx-xxxx
Vangilder, William S. xxx-xx-xxxx
Vanlew, William R. xxx-xx-xxxx
Vanwagner, Ross, Jr. xxx-xx-xxxx
Vechik, Donald xxx-xx-xxxx
Venable, William P., Jr. xxx-xx-xxxx
Verner, Edward W. xxx-xx-xxxx
Veurink, William J. xxx-xx-xxxx
Vick, Robert I. xxx-xx-xxxx
Vickers, Grover W. xxx-xx-xxxx
Vickrey, Carol D. xxx-xx-xxxx
Villa, Charles xxx-xx-xxxx
Vogel, David A. xxx-xx-xxxx
Vosburgh, Leland E. xxx-xx-xxxx
Wachter, Robert J. xxx-xx-xxxx
Waechter, Luther H. xxx-xx-xxxx
Waggoner, Cecil E. xxx-xx-xxxx
Waitt, Lawrence L. xxx-xx-xxxx
Walker, Ruby C. xxx-xx-xxxx
Walsh, Kenneth L. xxx-xx-xxxx
Walsh, Michael J. xxx-xx-xxxx
Walters, George S. xxx-xx-xxxx
Walters, James J. xxx-xx-xxxx
Walters, Marvin L. xxx-xx-xxxx
Walters, Wilmer C., Jr. xxx-xx-xxxx
Ward, Albert H., Jr. xxx-xx-xxxx
Ward, Clifford L. xxx-xx-xxxx
Ward, John D. xxx-xx-xxxx
Ward, Kermit D. xxx-xx-xxxx
Ward, Robert W. xxx-xx-xxxx
Warix, Clay W., Jr. xxx-xx-xxxx
Warren, Calvin C. xxx-xx-xxxx
Warren, William J. xxx-xx-xxxx
Wassom, Chester R. xxx-xx-xxxx
Wasson, Glenn E. xxx-xx-xxxx
Waters, William G. xxx-xx-xxxx
Watkins, Elmer R. xxx-xx-xxxx
Watkins, James L. xxx-xx-xxxx
Watson, Charles F., Jr. xxx-xx-xxxx
Watson, Raymond S. xxx-xx-xxxx
Watts, Jack K. xxx-xx-xxxx
Weaver, Russell E., Jr. xxx-xx-xxxx
Webb, Charles L., Jr. xxx-xx-xxxx
Webb, Herbert G. xxx-xx-xxxx
Webb, James L. xxx-xx-xxxx
Webb, Sidney A. xxx-xx-xxxx
Webber, Byron L. xxx-xx-xxxx
Webster, Everett H. xxx-xx-xxxx
Wedekind, Donald H. xxx-xx-xxxx
Weehler, Eldon R. xxx-xx-xxxx
Wehe, John H. xxx-xx-xxxx
Weihs, Gordon J. xxx-xx-xxxx
Weiss, Kenneth E. xxx-xx-xxxx
Welch, John W. xxx-xx-xxxx
Welch, Robert F. xxx-xx-xxxx
Weller, Burton L. xxx-xx-xxxx
Wells, George W. xxx-xx-xxxx
Wells, Walter W. xxx-xx-xxxx
Welsh, Mark A., Jr. xxx-xx-xxxx
Weltz, Charles O. xxx-xx-xxxx
Weniger, Andrew L. xxx-xx-xxxx
Werner, Paul J. xxx-xx-xxxx
Wesse, Wilbert D. xxx-xx-xxxx
West, Glenn H. xxx-xx-xxxx
West, Joseph H. xxx-xx-xxxx
Wetherell, Ernest J. xxx-xx-xxxx
Whalen, Donald B. xxx-xx-xxxx
Whatley, George R. xxx-xx-xxxx
Whealen, Daniel M. xxx-xx-xxxx
Wheeler, George E. xxx-xx-xxxx
Whelan, Paul A. xxx-xx-xxxx
Whelan, Richard J. xxx-xx-xxxx
Whetzel, Robert D. xxx-xx-xxxx
Whicher, William C. xxx-xx-xxxx
Whitaker, J. L. xxx-xx-xxxx
White, Benjamin L. xxx-xx-xxxx
White, James E. xxx-xx-xxxx
White, Simon S., Jr. xxx-xx-xxxx
Whitener, Carr C. xxx-xx-xxxx
Whitten, Solomon D., Jr. xxx-xx-xxxx
Whittingham, Donald W. xxx-xx-xxxx
Wicks, Marvin A. xxx-xx-xxxx
Wickwire, Robert J. xxx-xx-xxxx
Wiekhorst, Mark C. xxx-xx-xxxx
Wilcox, David W. xxx-xx-xxxx
Wiles, Howard O., Jr. xxx-xx-xxxx
Wilkins, George I. xxx-xx-xxxx
Wilkinson, Paul K. xxx-xx-xxxx
Willard, Garry A., Jr. xxx-xx-xxxx
Willett, Homer N. xxx-xx-xxxx
Willey, Kenneth W. xxx-xx-xxxx
Williams, Clarence R. xxx-xx-xxxx
Williams, Gene F. xxx-xx-xxxx
Williams, Jackson B., Jr. xxx-xx-xxxx
Williams, Jessie B. xxx-xx-xxxx
Williams, John T. xxx-xx-xxxx
Williams, Mittie R. xxx-xx-xxxx
Williams, Richard F. xxx-xx-xxxx
Williams, Robert H. xxx-xx-xxxx
Williams, Thomas A., Jr. xxx-xx-xxxx
Williams, Walter A. xxx-xx-xxxx
Williford, James F. xxx-xx-xxxx
Willis, Vincent C. xxx-xx-xxxx
Willoughby, Michael E. xxx-xx-xxxx
Wills, Harley N. xxx-xx-xxxx
Willsie, Donovan L. xxx-xx-xxxx
Wilson, Forrest E. xxx-xx-xxxx
Wilson, William M. xxx-xx-xxxx
Wilson, William B. xxx-xx-xxxx
Winberg, Harry L. xxx-xx-xxxx
Windland, Sara J. xxx-xx-xxxx
Wingate, Clark L. xxx-xx-xxxx
Wise, Joseph H., Jr. xxx-xx-xxxx
Wissman, William O. xxx-xx-xxxx
Wittry, John P. xxx-xx-xxxx
Wolfe, Leon K., Jr. xxx-xx-xxxx
Wolfer, Leonard L. xxx-xx-xxxx
Wolff, Earle R. xxx-xx-xxxx
Wollver, Robert M. xxx-xx-xxxx
Wood, William F., Jr. xxx-xx-xxxx
Woodell, John N., Jr. xxx-xx-xxxx
Woods, David A., Jr. xxx-xx-xxxx
Woods, Richard M. xxx-xx-xxxx
Woog, Rene M. xxx-xx-xxxx
Worley, Luther D. xxx-xx-xxxx
Woske, Donald G. xxx-xx-xxxx
Wratten, Joseph B., Jr. xxx-xx-xxxx
Wright, Howard E. xxx-xx-xxxx
Wright, John C. xxx-xx-xxxx
Wright, Vernon L. xxx-xx-xxxx
Wurschmidt, Leo C. xxx-xx-xxxx
Wurthmann, Henry S. C., Jr. xxx-xx-xxxx
Wylie, Sherrell W., Jr. xxx-xx-xxxx
Wymer, James R. xxx-xx-xxxx
Yanecek, Earl E. xxx-xx-xxxx
Yeager, Marvin A. xxx-xx-xxxx
Yennie, Eugene V. xxx-xx-xxxx
Yocum, John W. xxx-xx-xxxx
Young, George J., Jr. xxx-xx-xxxx
Yuhas, Louis D. xxx-xx-xxxx
Zehnder, Herbert R. xxx-xx-xxxx
Zemple, Charles J. xxx-xx-xxxx
Zettel, Frank C. xxx-xx-xxxx
Zielinski, Lester W. xxx-xx-xxxx
Zinsmeister, Paul C., Jr. xxx-xx-xxxx
Zook, Donald B. xxx-xx-xxxx
Zunic, Nicholas F., Jr. xxx-xx-xxxx
Zunker, Gordon K. xxx-xx-xxxx
Zurawski, Donald D. xxx-xx-xxxx
Zwiacher, John W. xxx-xx-xxxx

CHAPLAIN CORPS

Arendsee, Roger M. xxx-xx-xxxx
Backman, Lee W. xxx-xx-xxxx
Coggins, Joseph H. xxx-xx-xxxx
Collins, John R. xxx-xx-xxxx
Conaboy, Conan J. xxx-xx-xxxx
Cooper, Calvin C. xxx-xx-xxxx
Copeland, Isaac M., Jr. xxx-xx-xxxx
Dier, Blanche J., Jr. xxx-xx-xxxx
Ellison, Ervin D., III xxx-xx-xxxx
Gardiner, Homer E. xxx-xx-xxxx
Horstad, Dean C. xxx-xx-xxxx
Klaric, George M. xxx-xx-xxxx
Krieger, Wilfred L. xxx-xx-xxxx
Lyznicki, Edmund F. xxx-xx-xxxx
Margitich, Michael xxx-xx-xxxx
Moran, Thomas J. xxx-xx-xxxx
Powell, Samuel G. xxx-xx-xxxx
Riggs, Carl B. xxx-xx-xxxx
Squire, Donal M. xxx-xx-xxxx

DENTAL CORPS

Baum, Leroy M., Jr. xxx-xx-xxxx
Brolling, Robert A. xxx-xx-xxxx
Bulman, Robert E. xxx-xx-xxxx
Colaizzi, Frank A. xxx-xx-xxxx
Cole, Theodore C. xxx-xx-xxxx
Curtis, William J. xxx-xx-xxxx
De Jmek, Homer W. xxx-xx-xxxx
Dooley, Benjamin E. xxx-xx-xxxx
Drake, Robert B. xxx-xx-xxxx
Fitch, Melvin G. xxx-xx-xxxx
Gilliam, Robert H. xxx-xx-xxxx
Gutweniger, Charles A. xxx-xx-xxxx
Harrison, William M. xxx-xx-xxxx
Henry, Richard A., Jr. xxx-xx-xxxx

Hope, Harley F., Jr., xxx-xx-xxxx
Jacoby, James K., xxx-xx-xxxx
Johnson, Robert P., xxx-xx-xxxx
Junghans, John A., xxx-xx-xxxx
McCarthy, Paul H., xxx-xx-xxxx
Meffert, Roland M., xxx-xx-xxxx
Meister, Frank, Jr., xxx-xx-xxxx
Morrow, Robert M., xxx-xx-xxxx
Parish, Gene D., xxx-xx-xxxx
Patterson, Joe M., xxx-xx-xxxx
Pelc, Henry T., xxx-xx-xxxx
Rank, Dale F. P., xxx-xx-xxxx
Reiner, Peter R., xxx-xx-xxxx
Rinaldi, Phillip G., xxx-xx-xxxx
Rogers, Edward W., xxx-xx-xxxx
Rogers, James H., xxx-xx-xxxx
Sarka, Robert J., xxx-xx-xxxx
Schmidt, William H., xxx-xx-xxxx
Smith, James R., xxx-xx-xxxx
Takacs, William J., xxx-xx-xxxx
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Weiss, Lane E., xxx-xx-xxxx
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MEDICAL CORPS

Battle, Earl P., xxx-xx-xxxx
Cleland, William O., xxx-xx-xxxx
Conrad, Fred G., xxx-xx-xxxx
Daley, John G., xxx-xx-xxxx
Fitzgerald, Robert T., xxx-xx-xxxx
Froede, Richard C., xxx-xx-xxxx
Funk, John W., xxx-xx-xxxx
Heine, Earle R., xxx-xx-xxxx
Howell, William D., xxx-xx-xxxx
Kelley, Ira M., xxx-xx-xxxx
Matejka, Robert E., xxx-xx-xxxx
Meng, Gunter R., xxx-xx-xxxx
Miller, Monte B., xxx-xx-xxxx
Ockner, Stephen A., xxx-xx-xxxx
Parker, Gerald W., xxx-xx-xxxx
Rickenbach, Howard F., Jr. xxx-xx-xxxx
Rueve, William W., xxx-xx-xxxx
Santacroce, Thomas A., xxx-xx-xxxx
Scibetta, Richard C., xxx-xx-xxxx
Sharpe, Page, Jr., xxx-xx-xxxx
Snoga, Jimmy R., xxx-xx-xxxx
Story, William C., xxx-xx-xxxx
Thomas, Frank W., Jr., xxx-xx-xxxx
Turns, James W., Jr., xxx-xx-xxxx
Wilson, Charles L., xxx-xx-xxxx
Woodmansee, Terrell R., xxx-xx-xxxx
Zick, Herbert R., xxx-xx-xxxx

NURSE CORPS

Bates, Maudie E., xxx-xx-xxxx
Beard, Sarah E., xxx-xx-xxxx
Burkhardt, Ann L., xxx-xx-xxxx
Carlson, Mary S., xxx-xx-xxxx
Chaplin, Genevieve, xxx-xx-xxxx
Charlton, Betty J., xxx-xx-xxxx
Clarke, Mary M., xxx-xx-xxxx
Collavd, Laverne M., xxx-xx-xxxx
Farrell, Eileen, xxx-xx-xxxx
Fueller, Jean M., xxx-xx-xxxx
Golden, Norma J., xxx-xx-xxxx
Grim, Patricia A., xxx-xx-xxxx
Grubbs, Garnett P., xxx-xx-xxxx
Halnan, Phyllis J., xxx-xx-xxxx
Herold, Ella W., xxx-xx-xxxx
Higdon, Wanda J., xxx-xx-xxxx
Hope, Lois V., xxx-xx-xxxx
Householder, Marjoprie L., xxxx
Howard, Lillian T., xxx-xx-xxxx
Ingram, Helene A., xxx-xx-xxxx
Kellam, Agnes L., xxx-xx-xxxx
Maguire, Mary P., xxx-xx-xxxx
Marshall, Louise A., xxx-xx-xxxx
Martinjak, Marti J., xxx-xx-xxxx
Maslanka, Helen A., xxx-xx-xxxx
McFall, Eleanor L., xxx-xx-xxxx
Momrow, Esther M., xxx-xx-xxxx
Myles, Ruth M., xxx-xx-xxxx
Powell, Elma J., xxx-xx-xxxx
Scanlon, Mary M., xxx-xx-xxxx
Stewart, Bonnie L., xxx-xx-xxxx
Stout, Ellen M., xxx-xx-xxxx
Thomas, Frances E., xxx-xx-xxxx
Thornburgh, Erlene, xxx-xx-xxxx
Tyler, Eva C., xxx-xx-xxxx
Wallace, Mary E., xxx-xx-xxxx
Weaver, Phyllis J., xxx-xx-xxxx
Wells, Sarah P., xxx-xx-xxxx
Whitlock, Ona F., xxx-xx-xxxx
Wikoff, Lois J., xxx-xx-xxxx
Wood, Edith, xxx-xx-xxxx
Zirkle, Robbie J., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Ables, William A., Jr., xxx-xx-xxxx
Beale, Charles C., xxx-xx-xxxx
Braden, Robert W., xxx-xx-xxxx
Britt, Clyde L., xxx-xx-xxxx
Busch, Emery B., Jr., xxx-xx-xxxx
Farmer, Jack N., xxx-xx-xxxx
Gabel, Richard J., xxx-xx-xxxx
Galbraith, John R., xxx-xx-xxxx
Gibble, Thomas B., xxx-xx-xxxx
Gray, Pat B., xxx-xx-xxxx
Green, John R., xxx-xx-xxxx
Grimes, Ivan B., xxx-xx-xxxx
Guerin, Michael D., Jr., xxx-xx-xxxx
Jenkins, Thomas H., Jr. xxx-xx-xxxx
Jones, Bruce, xxx-xx-xxxx
Keeffe, Loren J., xxx-xx-xxxx
Lapresto, Jasper, Jr., xxx-xx-xxxx
McIntyre, Walter V., xxx-xx-xxxx
Nolan, Francis X., xxx-xx-xxxx
Nugent, Edward S., xxx-xx-xxxx
Overfelt, Clifford D., Jr., xxx-xx-xxxx
Peters, Kenneth W., xxx-xx-xxxx
Pons, James T., xxx-xx-xxxx
Richardson, Toxie W., Jr., xxx-xx-xxxx
Ross, William C., Jr., xxx-xx-xxxx
Simmons, Bennie F., xxx-xx-xxxx
Summers, Donald F., xxx-xx-xxxx
Teems, Ray M., xxx-xx-xxxx
Thornell, Emmett A., xxx-xx-xxxx
Todd, Garry W., Jr., xxx-xx-xxxx
Watson, Robert A., xxx-xx-xxxx
Watterson, Lewis A., xxx-xx-xxxx

VETERINARY CORPS

Clarke, Neville P., xxx-xx-xxxx
Godden, William R., xxx-xx-xxxx
Jones, William L., Jr., xxx-xx-xxxx

BIOMEDICAL SCIENCE CORPS

Baber, Winston D., xxx-xx-xxxx
Bates, Jack H., xxx-xx-xxxx
Beatty, Maxine, xxx-xx-xxxx
Bell, Herbert E., xxx-xx-xxxx
Butcher, Bruce A., xxx-xx-xxxx
Cardarelli, Alexander J., xxx-xx-xxxx
Cortner, Robert H., xxx-xx-xxxx
Etter, Hal G., xxx-xx-xxxx
Hartman, John L., Jr. xxx-xx-xxxx
Huttenhauer, Glenn A. xxx-xx-xxxx
Loper, Lester R., xxx-xx-xxxx
Schmid, Mary H., xxx-xx-xxxx
Skafidas, Gregory J., xxx-xx-xxxx
Smith, Francis J. xxx-xx-xxxx
Thimm, Frederick F., xxx-xx-xxxx
Vanscoy, Joan L., xxx-xx-xxxx
Verhagen, Paul C., xxx-xx-xxxx
Williams, William I., xxx-xx-xxxx

Harold B. Munkvold, xxx-xx-xxxx FR, for reappointment to the active list of the Regular Air Force, in the grade of major, from the temporary disability retired list, under the provisions of sections 1210 and 1211, title X, United States Code.

U.S. NAVY

The following-named officers of the U.S. Navy for promotion to the grade of chief warrant officer, W–3, subject to qualification therefor as provided by law:

Abretski, Paul Robert
Acre, Clifton Harold
Adams, Edward Suber
Adams, George Manley
Adams, James Leo
Adrian, George William
Ahlers, Norbet Anthony
Akers, Floyd, Jr.
Akins, William Everett
Akstin, John, III
Alcorn, Raymond Elmer
Alderman, Charles David
Allbert, Eugene Lee
Allen, Benjamin Franklin
Allen, James David
Allen, Robert William
Anderson, Charles Edward
Anderson, Charles Hayward
Anderson, Charles William
Anderson, George Bryant, Jr.
Anderson, Merlin Francis
Andrews, James Robert
Andrews, William Fredric
Anzini, Albert, Jr.
Arion, Ellsworth Eugene
Armengol, Rene Adrian, Jr.
Armour, Warren Thomas
Arnold, Arlen Elmo
Artis, Herbert
Ashby, Gurney Grayson
Ashlock, Edward Lee
Atchley, Andrew Thomas
Avenson, Jerome Harvey
Backus, Irving Daniel
Bailey, Robert Chalmers
Bair, John Jacob, Jr.
Baker, Clyde Ernest
Baker, Ronald Pearce
Baldwin, Robert Lee
Bambeck, Donald Herman
Banister, Robert Lee
Banks, John Wealey
Barber, James Walter
Barger, William Ray
Bargy, Philip Mason
Barhite, Robert Eugene
Barnes, Sam Motley
Barnett, Francis Eugene
Barnhart, Edward Eugene
Barrett, Haskell Paul, Jr.
Barrows, Ray Charles
Barrows, Ray Lee
Bartlett, James Roy
Bartley, James Arnold
Barton, Hershel Vincent
Beabout, Robert Franklin
Beagle, Charles Blaine
Beaubouef, Joe Ray
Beaver, Ira Howard
Beck, Allen Earl
Becker, John David
Becker, Raymond Herbert
Beckley, Charles Dan
Beebee, Douglass Ramon
Beitinger, Richard Ervin
Benjamin, Dennis James
Bennett, James Paul
Bergan, Eldon Lavern
Bernard, Walter
Berry, Thomas Monroe
Bertels, Charles Chandler
Bertelsen, Duane Leland
Bevilacqua, Charles Anthony
Biernesser, James Carr, Jr.
Bishop, Charles Richard
Black, Harold Baxter
Black, James Leroy
Black, James Douglas
Black, Montie Duane
Black, Roy Willard
Blake, Joseph Albert, Jr.
Blanchard, Gary Franklin
Bland, Richard David
Bledsoe, Donald Ladean
Bliss, Albert McChesney
Board, George Robert
Bondurant, Curtis Charnell
Booker, Robert Sylvester
Boon, John Edward
Boor, Leo John
Boorom, Robert Francis
Booth, Robert Walter
Boring, George Thomas
Bostic, Van Gordan
Bottonfield, David Franklin
Bowden, Hayward Preston
Bowers, William Edward
Boyd, Henry Lee
Boylan, Raymond Lawrence
Brackett, Vincent George
Brackett, John Woodburry
Bradford, Edwin Dacosta
Bradford, John Harold
Bradley, Ernest Ray
Bradley, John Walter
Bramblett, Jack
Brantly, John Paul
Brasil, Robert Frank
Brasuell, Walter Joe
Bratsch, Roger G.
Brattain, Herbert Keith
Brisby, Richard Lee

Brisson, Richard Edward
Brogdon, Hubert
Brooks, George Edward
Brooks, Thomas William
Brophy, John Richard
Broussard, Clarence Joseph
Brown, Donald Claudean
Brown, Henry Lawrence
Brown, James Richard
Brown, Leonard Harrison, Jr.
Brumfield, Aubrey Lamar
Brumit, Larry David, Jr.
Bryant, Charles Thomas
Bryden, Kenneth Chester
Bucher, Hugh Alan
Buist, Andrew Robertson
Bunch, Duane Wilton
Burcham, Phillip Ray
Busch, Henry Leon
Bussell, Samuel D.
Busseno, Henry William
Butler, James Daniel
Byrd, Alwyn Millard
Cameron, Robert Murdoch
Campbell, James Thomas
Capodilupo, Chester
Carella, Augustine George
Carle, James Everett, Jr.
Carlson, Robert Stanley
Carlton, Norman Lee
Carnell, John, Jr.
Carpenter, Frank Taylor
Carr, Robert Charles
Carraway, Preston Ivanhoe
Carroll, John Henry
Carter, Arthur Edward
Carter, Harry McClain
Carter, John George
Cartwright, William Fuller
Casey, David Ronald
Caspary, Kenneth Allen
Cass, William Ernest, II
Cathey, George Mack
Catron, John Grady
Catter, Peter Baldwin
Cave, Roland Lee
Caviness, Jerry Lee
Cervantes, Pat Garcia
Chalmers, James Douglas
Chavez, Angelo
Chenoweth, Charles Everett
Chernegie, Michael Alexander
Chisholm, Leonard Marby
Choate, Edward Howe
Clabaugh, Ronald Stephen
Clark, Harry Eugene
Clement, Andrew Charles, Jr.
Cliffton, Jimmie Lee
Clouston, Warren Solomon
Cloutier, Lawrence Paul, Jr.
Coats, Daniel Michael
Cobb, Dwight Leroy
Cohl, Duane Edward
Colley, Earl Milton, Jr.
Colvin, Charles Foster
Comeau, Thomas Anthony
Confer, David Joseph
Converse, Charles Albert
Cook, Maurice Dudley
Coons, Bard See
Cooper, James Oliver
Cooper, William Jackson
Cope, Carl James
Cornett, Robert Jerry
Cottrill, William Page
Counts, Garland Lee
Courtney, Walter Edward
Cousins, Jack William
Crabb, Ronald Lee
Crawford, Gary Theodore
Crawford, Charles Henry
Creel, Cecil Doyle
Critser, Arthur Earl
Cross, Arthur William
Cruz, August Bortels
Currie, Henry Thomas
Curry, Samuel Grayson, II
Curtis, George Steven, Jr.
Daering, Arlyn Romeo
Dahl, Orvie Meryl
Dailey, Leroy
Dallman Roger Anthony, Sr.
Dame, Joseph Thomas, Sr.
Darr, Sammy Lee
Daughton, Gary Lee
Davenport, Eugene
Davis, Claude Wesley, Jr.
Davis, Dave Richard
Davis, Edward Lyle
Davis, Elbert Austin, Jr.
Davis, Robert Lee
Davis, Robert Jesse
Davison, Joseph Josh, Jr.
Dawson, Jackie Wendell
Day, Billy Eugene
Deal, Jesse Saxon
Deal, Robert Edford
Dean, David Bennett
Deese, David Shannon
Deeter, Michael Lee
Deffenbaugh, Dale Chester
Degroff, Dwight Harris, Jr.
Deguzman, Peter Munoz, Jr.
Deinhardt, John Joseph
Deitz, Charles Courtney
Denardi, William Louis
Deniz, Prudencio
Desantis, Armand Joseph
Detwiler, Donald Vernon
Deutsch, Joseph King
Dexter, Donald Nelson
Digiovanni, Donald Andrew
Dill, Mylnor Alan
Dionne, Roger William
Dix, Richard Jack
Dobson, Eugene Emmett
Doerrer, William, Jr.
Dominicci, Felix Blanco
Donald, Keith Allen
Dorsey, Edward Bryant
Draime, Neal Eugene
Drake, Hollis Derrill
Drake, Lon Eldon
Dresback, Melvin Lloyd
Drew, Jack Sanford
Drysdale, Ralph Ernest
Dubay, Roger Michael
Duchesneau, Robert Edward
Duke, Arnold Lowell
Duke, Clinton Harrison, Jr.
Dunn, Dickie Dean
Duran, Andres, Jr.
Duren, James Richard
Dykstra, Robert John
Eby, Robert Allen
Edwards, Raymond Lewis
Eilenfield, Richard Lee
Ekstein, John David
Elkins, Franklin Delano
Enevoldsen, Jack
Englebretson, Ronald Earl
Ensminnger, Gerald D.
Epley, Ernest Hugh
Epley, Jack
Erskine, Robert Sageley
Escajeda, Ruben
Estes, William Lankston
Evans, James Thomas
Evans, Lyndel Dwayne
Fabbre, Albert Joseph
Fawcett, Peter Formanek
Fetter, Norman Leonard
Fidler, Jird Malvin
Finney, Charles Edward
Finrock, Patrick
Fipps, William Franklin
Fischer, Henry Arnold
Fisher, John Straw
Fite, James Wilson
Fitzpatrick, Willie
Flahiff, Daniel Edward
Flanders, Mack Haywood
Fletchall, Donald Ray
Floyd, William Ronald
Foltz, Norbert Paul
Forbes, Clarence
Forde, Clifford William
Forgione, Frank George
Fort, Robert Edward
Foutch, Argyle Wayne
Frame, Daniel Alva
Frank, Bernard Clarence
Franklin, Robert Nelson
Franks, Otis Knight
Frantz, James Arthur
Freeman, Bobby Jack
Freeman, George
Freeman, Roy Earl
Frial, Ernesto Fabillon
Fulgham, Caleb Richard
Fuller, Emil Andrew
Gable, Donnie Emery, Jr.
Gackenback, Henry August
Gaddis, Bennie Wayne
Gale, Robert William
Galindo, Robert Martinez
Ganis, Benjamin Franklin
Gann, Virgil Eugene
Gardiner, John Peter
Gardner, Leroy Elwyn
Garner, James Houston
Garnett, Claude, Jr.
Garrett, Charles Edward
Garrison, Rolland Roy
Gaudreau, Valmore Ernest
Gaughan, James Anthony
Gault, Harry Stewart, Jr.
Gavasso, Joseph Clement
Gay, Billy Thomas
Gelsomino, Michael Joseph
Gepford, Richard Donald
Gerhard, John Robert
Germany, Charles Joseph
Gibson, Bernard Edward
Gillespie, Lindsay Moore
Glaser, Clair Chamberlin
Glaser, Leland Leonard
Glover, Thomas James
Gochenaur, George Earl
Goethe, Calvin Royce
Goode, Eugene Francis
Goodman, Sheldon J.
Goodrich, Boyd Larry
Goodrum, Daniel Joseph
Gorum, Marion Ernest
Gow, Vernon Albert
Graham, Dennis Loring
Green, Marion Wendell
Green, William Lawrence, Jr.
Greenberger, David
Greene, Walter Leo
Greer, James Nelson
Greeson, Gordon Van
Grigsby, Leon Thomas
Grimes, David Allen
Grinnell, Raymond James, Jr.
Grue, Merlin Curtis
Guerra, Manuel William, Jr.
Guevarra, Larry Nocon
Gunhouse, Ramon Francis
Haaf, Joseph Bernard
Hagenbruch, Robert Henry
Hager, Eli Elias
Haisten, Fennie Carlton
Hale, Charles Allen
Hall, Charlie Hermond
Hall, Clifford Richard
Haller, Bernard Joseph
Halpern, Herbert
Hambley, James Gilbert
Hamilton, Jerry Allen
Hamilton, Robert Neil
Hamm, Walter Nolan
Hammock, Charles Raymond, Jr.
Hand, John Milton
Hanno, Henry
Hardin, Larry Kenneth
Hardin, Millard Carl
Harmon, John Ernest, Jr.
Harold, Charles Paul
Harper, Frank Damian
Harper, James Edward
Harris, Bobby Lynn
Harris, Donald Edward
Harris, Harold Danny
Harris, Robert Henry
Harris, Wendell, Jr.
Harrison, Robert Leroy
Harter, Larry Leroy
Hartley, James Cecil, Jr.
Hartman, David Lee
Harvey, Julian Tobey
Hasty, Larry
Haus, David Stauffer
Haver, Richard Ives
Havner, Jerry Glen
Hawtin, David Ray

Hayes, Karl Edward
Haynal, James Robert
Haynes, Gus Elmore
Hearn, James Robert
Heidecker, William August
Helvie, Lawrence Eugene
Henderson, Robert Dale
Hendricks, Jerry Franklin
Hennegan, Dennis Stephen
Henry, Joseph Edward
Hermann, Albert Joseph
Herning, Robert Eugene
Herrington, Frank Lamar
Hewitt, Wallace Alvin
Hickey, Raymond John, Jr.
Hight, Harvey Bea
Hiles, Ernest Merlyn
Hill, Donald Lewis
Hill, Thomas Frederick
Hillman, Lester Raymond
Hilton, John Franks, Jr.
Hines, Milton
Hinkebein, Harold Joseph
Hinson, William Phillip
Hodges, Byron Wayne
Hodges, George Lee, Jr.
Hoffman, James Lewis
Hogan, Richard Harden, Jr.
Holden, Hugh Frederick
Holder, J. D.
Holiway, Weldon Yvonne
Hollen, Danny Lee
Holliday, Donald Ainsley
Hollinger, Gerald Spickler
Holmes, Alvis Wayne
Holzendorf, William Frank
Horkay, Harold James
Hornby, Joseph George
Horsfall, William Edward
Howard, John David
Howard, Thomas Jere
Howard, William Lindo
Howell, Robert Dale
Howery, Ronald Edwin
Hubbard, William Vandy
Hubert, David Leroy
Hubner, Donald Ray
Hudson, James E.
Hughes, Charles Earl
Hughes, James
Hughes, Robert Joseph
Hughs, Jerry Trevlyn
Hulsey, William David, Jr.
Humphreys, Leslie Charles
Huskey, John Wesley
Ierien, Joseph George
Irby, Eldon Elmore
Jackson, Charles Everett
Jacobi, Frederick William
James, Charles Rayburn
James, Edwin Clarence
Jantz, Michael William
Jean, Robert Raymond
Jeffries, William Pettit, Jr.
Joel, Noble Fred, Jr.
Johns, George Kenneth
Johnson, Clara Belle
Johnson, Donald Alfred
Johnson, Horace Albert
Johnson, Larry Von
Johnson, Raymond Eugene
Johnson, Troy Ray
Johnston, Darrell Edwin
Johnstone, Robert James
Joiner, Charles William
Jones, Carl Melvin
Jones, Charlie Otto Duncan
Jones, Isaiah John
Jones, James
Jones, Rodney Richard
Joyner, James Adron
Kanaski, Richard Stephen
Kay, Raymond Erwin
Kearns, Thomas Owen
Keaton, William Creath
Keaveny, Valery Carlos
Keeth, Edward Wayne
Keisel, William Arthur
Keith, Donald Rae
Keith, William Brett, Jr.
Kelleher, Joseph Lawrence
Kelly, John Edward
Kershner, Roy Lewis
Key, Gerald Irwin
Kidd, John DeGarmo
Kiese, Manfred Gerhard
Kimball, Kenneth Richard
Kimbro, Rex Edward
King, John A., Jr.
Kirst, Gordon, Jr.
Klock, Richard Francis
Kloke, Carl Herbert
Knudtzon, George Norman
Kornman, Jerald Stephen
Krawchuk, Peter
Kressel, Herbert John
Krygier, Thomas Joseph
Kuginskie, Joseph, Jr.
Kukler, John Anthony
Kumfert, Alda True
Kuzel, Norman Emil
Kwasny, Joseph
Kyser, Harold Harlon
Laboda, Matthew
LaFleur, Jean Russel
Lambert, Nathan Eugene
Lamorticelli, Frank Thomas
Lamphere, William Lloyd
Lappin, Thomas Leo
Lardner, Thomas Paul
Larson, Marvin Leigh
Lary, Weldon James
Lauerman, James Don
Lawson, Carroll Lavon
Lawton, Richard Warren
Leavey, Joe Morris
LeCroy, Alton Brown
LeGare, Marcel Delphis
Legg, Bobby Dean
LeMaster, Joe Henry
Lenz, Jack Carl
Lewis, Robert Glenn
Leydet, Robert Joseph
Linsley, William Francis
Lister, David Earl
Little, David Joe
Lloyd, George Allan
Loe, Rex Lee Boyd
Long, Beauford Aldon
Long, Thomas Pressly
Loranger, Richard George
Lord, Don
Loria, Louis Charles
Losli, Gerald Grant
Lovett, Cecil W., Jr.
Lowe, Michael Baxter
Lowe, Walter Robert
Lowe, William Richard
Luce, Robert Emmett
Lundberg, John Robert
Lutrario, Albert
Lutze, Robert Gerald
Lynch, Michael Allen
Mackin, Thomas James
Madden, John Eugene
Maddock, James Fairweather
Mahoney, Michael
Maiden, Jesse Joe
Malloy, William
Malmborg, Charles Leroy
Manahan, Fred Verlin
Mango, Albert Francis
Mann, Elmer Heath
Mann, James Elton
Mansfield, John Alden
Marenbach, Harry Alfred
Mariano, Carl
Mariano, Marciano
Marino, Raffaele
Marr, William Leonard
Marshall, Raymond Lee
Masler, John George, Jr.
Mathis, Larry Thomas
Matthews, Billie Joe
Matthews, Dale McNeil
Maupin, William Edward, Jr.
Mauro, Richard Fay
May, Harlin Conrad
McGee, Carl Edwin
McGee, James Murry
McClellan, Robert Artie
McClure, Kreston Kay
McCowan, Kenneth Edwin
McCullough, Harvey Taylor
McDaniel, John Oliver
McDonald, Thomas Henry, Jr.
McElhaney, Paul Raymond
McElroy, Fred Carl
McElvogue, Henry Clark
McGowan, Eugene Edward
McGrath, Daniel Jerome
McKay, Roy Curtis
McKinzie, Joe Edward
McLean, Augus Laughton, Jr.,
McMaster, Timothy Richard
McNutt, Jerry Wayne
McPeak, Robert Leroy
McPherson, Alexander Joseph
McVay, Billy Gene
Meeler, True Olan
Meneses, Johnny Farinas
Mercer, Laurice Wayne
Merrill, Wayne Rucker
Meuchel, Frank Tony
Meyer, Richard John
Meyers, John Robert
Middlebrooks, Robert Durwood
Miller, John Edwards, Jr.
Miller, Kenneth Ray
Miller, Lapel
Miller, Phillip Edson
Miller, Ronald Lee
Miller, Walter Everett
Milroy, Donald Eugene
Mingo, Louis Edward
Minzenmayer, Hiram Carl
Mitchell, Newton Robb
Mitchell, Raymond Earl
Mitchell, Charles Frank
Mitchell, William Newton
Mitchell, Jimmy Lee
Moaney, Phillip Bernard
Moon, William Monroe, Jr.
Moore, Edsel Lester
Moore, Owen Edward
Morales, Vicente
Moran, Kenneth Ray
Morris, Phillip Gail
Morris, Robert Allen
Morrow, Robert Melvin
Mountford, Dale Wesley
Mueller, William Joseph
Mueller, John William
Mullen, Joseph Michael
Mulligan, Robert Dale
Mulligan, Charles Howard
Mullins, Orville Eugene
Mummert, Franklin Robert
Mundy, William Edward
Murph, William Edwin
Murphy, John Thomas
Murphy, Larry Edward
Naples, Thomas Joseph
Nash, Ronald Edwin
Neal, Paul Gartrelle
Nelson, Stephen Reeve
Nerling, John George, Jr.
Nester, Forest Ray
Nethery, Marvin James
Nevarez, Rudolph Earnest
Nichols, Joseph Franklin
Nicholson, Gerald Norman
Nitschke, Karl William
Nixon, Sammy Carol.
Njaa, John Roger.
Noche, Nicholas Harold.
Nolin, Robert.
Norman, Silas Edwin.
Northrop, Robert Stiles.
Northrup, Donald James.
Nowicki, Marvin Ernest.
Nunley, Jack Bruce.
Nyman, Keith Oscar.
Ocallaghan, Neal Michael.
Odonald, Charles Irvin.
Oehler, James Christ.
Offield, John Dale.
Ohlman, Douglas Herman.
Ohm, Robert Lee.
Olkonen, Mark Emil.
Olson, Leslie Wilbur.
Olsson, John Phillip, Jr.
Oneal, Floyd Wendell.
Oneal, Jam Franklin.

Oshell, Robert Lewis.
Ottesen, James Joseph.
Otts, Ralph Haston.
Ousley, Doy D.
Overman, William Robert.
Owens, Charles Francis.
Owens, Richard Lee.
Oxrider, James Penfield.
Oyler, John Matthew.
Padgett, Ralph Wayne.
Pajuf, Joseph John.
Paquin, Joseph Russell.
Parkhurst, Lyman Edward.
Parsons, Robert Eugene.
Parsons, William Gilbert.
Payton, John Dewey.
Pearman, George Franklin.
Pearrell, Larry William.
Perkins, Philip Eugene.
Perkins, David Eugene.
Perkins, Earl Eugene, Jr.
Perry, Ronald Robert.
Peterson, Theodore Leroy.
Pettigrew, Charles Sumner J.
Pfeiffer, Donavon Joseph.
Pfleckl, Paul Joseph.
Phenix, Borden Eugene.
Phillips, John Gerald.
Pinterton, Everett David.
Piper, Leon Tracy.
Pirozzolid, David Paul.
Pitzer, Richard Lee.
Platt, Larry Duane.
Pokrywka, James Michael.
Polak, John Anthony.
Polk, Deward Winston.
Pond, Louis Valentine .
Popikas, Charles Frederick.
Porter, Joel.
Potter, Leroy Irving.
Powell, Raleigh Foster.
Powers, Richard George.
Poynter, Charles Ray.
Prather, Luverne.
Preece, Roger Dowell.
Price, Earl Junior.
Prinz, Gerald Henry.
Prothero, Glen, Jr.
Quinn, John Cromwell O.
Quinn, Richard Andrew.
Radasevich, Rudolph Leo
Raggo, Charles Joseph
Ramsey, Quillie Anderson, Jr.
Rawls, Robert Sherwood
Ray, Edward Alfred
Raymond, James Burr
Read, Marshall Baker
Reardon, Robert Joseph
Reese, Robert Wayne
Reeves, Donald Ray
Rehanek, Thomas Deovaux
Reid, Louis Lee
Renwick, David
Reuter, Kenneth Earl
Rezabek, Richard Joseph
Rhoden, Lawrence Bernard
Richardson, Billy Earl
Ridener, Linville Lee
Riedel, Charles Nicholas
Riley, Edward Monroe, Jr.
Rishel, Robert Marion
Ritchie, Coy Doyle
Rizek, Paul Herman
Robbins, William Robert
Robbins, Donald Dean
Robbins, Robert Justin
Roberts, Robert Edward
Rodgers, William Kenneth
Roe, James Paul
Rogers, Calvin Perry, Jr.
Romas, Gregory George
Romito, Vincent Anthony
Rooks, John T.
Roos, Neal Gerald
Ross, Daniel Allen
Rucker, Seabie Paul
Ruffin, Paul Denson, Jr.
Rule, George Gilbert
Rumer, William Harry
Rupp, Leroy
Ruryk, Mirian Eugene
Russell, George William, Jr.
Russell, Richard Leon
Ryan, Gerald Dean
Sampson, Dwight Adelbert
Sarama, Charles William
Sauls, Aubrey Plowden
Sauls, Herbert Mitchell
Saunders, Frankie Noel
Scaletti, Aurelio
Scaringella, Charles Thomas
Scheierman, Robert Leroy
Scherzer, James David
Schley, Ramon Monroe
Schmidt, Charles Otto
Schontag, Richard Frank
Schwaebie, Harry Miester
Scott, Wayne Alexander
Scott, William Edward
Sebourn, Dewey, Jr.
Sedgwick, William Hamilton
Sharbutt, Hillery Mathew
Sharp, Robert Leroy
Sharp, Sidney Norris
Shaul, Michael C.
Sheehan, Donald Francis
Shelton, Lynn Dale
Sherman, Richard Floyd
Shields, Joseph Carl
Shumpert, Harold Corbett
Siegel, Allen Ray
Simmons, Norman Ray
Singletary, Joe Wayne
Skipworth, William Holland
Slayton, Gerald Clifford
Sliger, Ronald Wilburn
Sloan, Arthur, Jr.
Smeltzer, Walter Theodore
Smith, Alan Hugh
Smith, Aldo Alonzo
Smith, Charles Frederick
Smith, Floyd Harold
Smith, Lewis Baxter
Smith, Robert Emmet
Smith, Ronald Eugene
Smith, Theodore Leon
Smith, Walter, Jr.
Smith, William Ray
Smitheman, James Courtland
Snyder, Ray Lewis, Jr.
Sockell, Edward Joseph
Sokol, Richard
Sollars, Kenneth Dale
Souder, Charles Elsworth
Soudier, Robert Joseph
Southerland, Macy James
Spence, Herbert, Jr.
Spencer, Roger Carl
Sprey, Douglass
Springfield, Robert Currier
Stafford, Richard Lucius
Stephenson, Thomas Richard
Stevens, Harold Allen
Stiller, Gerald Ervin
Stokes, Bobby Randle
Stone, Frederick Cecil
Stout, Arling George, Jr.
Sturgill, Cleveland Henry
Sturm, Jackie Lee
Stutler, Frank Otley, Jr.
Sullivan, James Stephen
Sullivan, Joseph Edward
Sutton, Morris Lee
Sweet, John Lawrence
Tabor, Melvin Allen
Tarvin, William Byrd
Taylor, Douglas Kent
Terryberry, Kenneth Charles
Tessier, Harley Dell
Thames, Charles Melvin
Thomas, David Owen
Thomas, Eugene
Thomason, William Rex
Thums, Robert Ferdinand
Tibbs, John William
Tillery, Donnie V.
Toon, Norbert Leo
Torgerson, James Hagen
Tourigny, Leonard Robert
Tucker, Claude Thomas, Jr.
Tucker, Howard A.
Tudor, Tommy Neal
Turk, Joseph
Turnbow, Grady William, Jr.
Turner, Jack Eugene
Tyler, J. B.
Tyler, Warner Russell
Uhrich, Harold Mitchell
Unangst, William Clinton
Vaccaro, Paul
Valenta, Bernard Lorenz
Vandyke, Wilburn Eugene
Vandyne, Leroy Thomas
Vanhoose, Ronald
Vanrompaey, Matthew Robert
Velsor, Herbert Frank
Vick, Don Allen
Vickery, Gwynn Arnold
Voigt, Harland George, Jr.
Voll, Alan Kent
Vsetecka, Leonard John
Wales, Richard Allan
Walker, Dewey Houston
Walker, Joe Bryon
Wall, Marion Charlie
Walsh, Myles Edward
Walsh, William Charles
Walz, Lee Lucas
Warren, Daniel Lee
Warren, William Lee
Watford, Qube Gene
Waters, William Haynes
Watson, Jimmy David
Watson, Tannis Robert
Webb, Rufus Willis
Webling, Robert
Weiland, Richard Emory
Welch, Leslie Corley, Jr.
Welch, Martin Joseph
Wells, Cecil Eugene
Welsh, Edward Lee
West, Donald Francis
West, Francis Owing
Westberry, Alexander Jackson
Westcott, John Henry
Westhoff, Dennis Anthony
Wheeler, Sidney Wayne
Wilkerson, Garland Warren
Will, George Frederick
Willard, Harold Lee
Williams, Alton Laverne
Williams, David
Williams, Richard Wallace, Jr.
Williamson, Duaine Charles
Williamson, Harry Rittenhou
Wilson, Dexter Donald
Wilson, James Orville
Wilson, Jerrold Bradley
Wilson, Philip Barry
Wilson, Millard Joseph
Wilson, William Clark
Wininger, Ronald Lee
Winistorfer, Elton Edward
Winsey, Joseph Keith
Wippel, Lawrence Franklin
Wisdom, Hayden Rand
Wolchko, David Michael
Woodiel, James Claude
Woods, Gerald Bishop
Woody, Guy Willard
Woolson, Fred Oscar
Worley, Robert Allen
Wray, Donald Milford
Wyatt, Thomas Verden
Yates, Clark Dallas
Ymzon, Ramon Almeda
Yott, George Joseph
Young, Neal Ronald
Youngblood, Jimmy Bramlitt
Zakrajsek, Henry Joseph
Zeigler, Hagood Atticus
Zeman, David Allen
Zerbe, Alton Richard
Zinn, Harry Blaine
Zoglmann, Paul Samuel

The following named officers of the U.S. Navy for promotion to the grade of chief warrant officer, W–4, subject to qualification therefor as provided by law:

Carl, Charles Leroy, Jr.
Hardin, Billie Ross