tucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin, Wyoming, Maine and New Hampshire.

Against Senator McGovern, President Nixon would lose Massachusetts, Minnesota, South Dakota, and the District of Columbia.

In a McGovern-Nixon contest the states in doubt: North Dakota, Pennsylvania, Rhode Island, Virginia, and West Virginia.

Against Senator Jackson, Mr. Nixon would win Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinios, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming, Maine and New Hampshire.

Against Senator Jackson, Mr. Nixon would lose Arkansas, Massachusetts, Minnesota, Rhode Island, and the District of Columbia.

States in doubt in a Nixon-Jackson race are Georgia, Louisiana, South Dakota, and West Virginia.

LINDSAY ON TICKET

Against Mayor Lindsay, President Nixon would win Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming, Maine, and Louisiana.

Against Mayor Lindsay, Mr. Nixon would lose Massachusetts and the District of Columbia.

States in doubt in a Nixon-Lindsay race are Minnesota, New York, Rhode Island, and West Virginia.

M'CARTHY AS FOE

Against Eugene McCarthy, Mr. Nixon would win Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan ,Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming, Maine, and Louisiana.

Against Mr. McCarthy, President Nixon would lose Massachusetts and the District of Columbia.

States in doubt in a Nixon-McCarthy meeting are Minnesota, Rhode Island, and West Virginia.

THOUGHTFUL REPORT ON THE SPACE SHUTTLE BY CONGRESSMAN LARRY WINN

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 18, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, President Nixon's announcement over the holidays that he would seek funds in the fiscal year 1973 budget to move ahead with the space shuttle is certain to arouse one of the major controversies over national budget priorities in this session of the 92d Congress. Congressman LARRY WINN, Republican of Kansas, who, as the new ranking Republican member of the Manned Space Flight Subcommittee of the House Committee on Science and Astronautics, is one of the House's most informed experts on this issue, recently published a report that deserves the attention of all Members of this body.

Congressman WINN points out that the possibility of new technological spinoffs, new sources of scarce natural resources, improved communications, new means of fighting disease and poverty, and reduced costs in getting men and material in and out of orbit, all argue strongly in favor of the President's decision to go ahead with the shuttle program. At the same time, Congressman WINN admits that all the evidence is not yet in and that it will be necessary for partisans on both sides of this issue to keep an "open mind." Let us hope that the debate over the space shuttle program can be maintained on the same high plane of reasoned, careful analysis displayed in this report by my colleague from Kansas:

STATEMENT OF CONGRESSMAN LARRY WINN

Over the holidays President Nixon announced his plans for the space shuttle: the go-ahead was given to the Administrator of the National Aeronautics and Space Administration, James Fletcher. What does this mean to America? is perhaps the basic question of relevance today.

As a partial answer to that question I could give you the bit about glory for America, patriotism and all that. Well, America needs more than pat, non-substantive responses. There are too many things which need doing: hunger and poverty are still a part of the life-style of thousands of Americans, for example.

The real answer then is a little further down the pike. Our natural resources are showing signs of exhaustion. Space exploration will help in the long-run to give us a source for needed minerals and metals. In the short run period, our space efforts are already producing spin-off benefits which are helping us to do a better job with the resources we have. I guess what it boils down to is that, through our space effort, we are betting on a future for America—a good future.

Of course we can't overlook man's natural instinct to explore. His curiosity is never satisfied. He must keep searching for the answers to life's questions. The more man knows the more he knows he doesn't know. This has frustrated man over the years, but it also keeps him going, moving forward—a perpetual motion which should not be stopped.

Now about the shuttle itself. Under the current system we launch a space vehicle with a booster rocket. They cost a lot of money and they can only be used once. The shuttle, on the other hand, is designed to be launched with a booster rocket. But, the space ship does its thing in space and then returns to earth like a standard airplane. The result is a flexible and much more inexpensive space capability. The jobs the shuttle could perform are various and include such things as repairing satellites and perhaps saving the lives of astronauts in space.

What does the space program mean to such problems as hunger and poverty? Well, for one thing, we have proven that satellites can serve as electronic watchdogs over diseases which affect our nation's food and fiber crops. Recent experiments related to corn blight have helped to show the way in this area.

The people of India will benefit from another space-related effort. Basically, it means that remote villages will have a communications link with the rest of the world. Through effective use of a communications satellite these villages will have access to the latest information on planting and harvesting crops as well as medical advice when needed.

Humane space spin-offs such as these are abundant and have been pointed out many times before. The main reason I mention them once again is that I anticipate considerable opposition in Congress to the shuttle program. For one thing we have wrecked the aerospace industry in the past few years. Unemployment in that field has been rampant. It needs a shot in the arm such as the shuttle can give it. But that's just one of the reasons to go ahead with the shuttle.

Certainly an area to be looked at closely is whether or not the shuttle will create environmental problems. NASA is already planning studies to look into any such potential problems. Previous studies, by the way, have shown that adverse environmental effects would be similar to the rather nominal problems presented by the operation of existing launch vehicles. I will personally keep an eye on this area.

And, I will be alert to any other potential problem areas as well. I agree with the concept of the shuttle, but I will not let my thinking be clouded regarding arguments on the other side of the question. You can be assured that I will maintain an open mind on the subject.

SENATE—*Wednesday, January 19, 1972*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

Eternal Father, in this quiet moment, dedicated to the unseen and the eternal, we pray for the United States. Grant that her strength may be in her goodness, and her greatness in the quality of her people.

In this disturbing and baffling world of swift and shifting change, we turn to Thee for that wisdom which comes from beyond all that is human. Give the people patience with those who serve them, and give to their servants here zeal and energy to come to wise solutions to vexing problems. Invest us all with that understanding and love which holds us together in harmony and peace.

We pray in the Master's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 18, 1972, be dispensed with.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ATTENDANCE OF SENATORS

Hon. SAM J. ERVIN, JR., a Senator from the State of North Carolina, Hon. PAUL J. FANNIN, a Senator from the State of Arizona, Hon. JOHN C. STENNIS, a Senator from the State of Mississippi, Hon. JOHN TOWER, a Senator from the State of Texas, Hon. WILLIAM V. ROTH, JR., a Senator from the State of Delaware, Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, Hon. EDMUND S. MUSKIE, a Senator from the State of Maine, and Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, attended the session of the Senate today.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time under the standing order.

ORDER OF BUSINESS

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

THE DEATH OF REPRESENTATIVE GEORGE W. ANDREWS OF ALABAMA

Mr. ALLEN. Mr. President, yesterday it was the intention of my distinguished senior colleague from Alabama (Mr. SPARKMAN) and myself to submit to the Senate a resolution mourning the death of the Honorable George W. Andrews, dean of the Alabama delegation in the House of Representatives, who died on Christmas Day.

Due to the formalities of Senate procedure, such a resolution would not be in order until the Senate had been officially notified by the House of the death of one of its Members.

Sometime during the day, such a resolution will be submitted by Senator SPARKMAN and myself, mourning the death of our good and great friend, Representative Andrews, and asking that the Senate adjourn today in respect to his memory.

At this time, Mr. President, it is my wish, and it is the wish of the people of Alabama, that words be spoken in the Senate Chamber about George Andrews and his fruitful career in our State and our Nation—especially in this historic building.

Mr. President, I was deeply saddened by the untimely passing of George W. Andrews. His life and works will long be remembered by the people of Alabama, particularly those of the Third Congressional District whom he so ably represented. George Andrews was one of our Nation's most influential and powerful Members of Congress, and the people from Alabama are proud of him. I cannot adequately convey the sense of loss felt by all of us without referring to a few of the highlights of his truly extraordinary background.

George Andrews received both undergraduate and law degrees from the University of Alabama. He began his public career in 1931 upon election to the office of circuit solicitor—now district attorney—of the third judicial district of Alabama and served in that capacity until 1943. At his hometown of Union Springs, he was a member of the Baptist Church, which he served as deacon. He was elected to Congress, in absentia, in 1944 while serving Navy duty at Pearl Harbor in the grade of lieutenant junior grade. The fact that in one of the counties of his district he received every vote but one is an indication of the esteem in which he was held, even at this early stage of his career. In these brief references there are manifestations of traits of character which were to shape the future career of George Andrews: love of God and country; service to church and community; and the concept of public service as a calling of the highest distinction. But we have mentioned only the beginning of a long and illustrious career of public service which eventually would span a total of 40 years and lead George Andrews to the heights of national eminence.

Mr. President, it has often been said that real statesmen do not arrive full flowered on the national stage. Instead, they arrive with the potential for statesmanship. They are nurtured and matured by an apprenticeship and experience in a wide variety of public affairs. In the case of George Andrews, his experience in Congress spanned 27 turbulent years—years characterized by periods of war and peace; prosperity and recession; social upheavals; and unprecedented technological and scientific advances. These rampant changes and stresses tested both the fiber of our Nation and the character of its political leaders. In the process, George Andrews proved himself a statesman.

His power and influence derived from intangible attributes of accumulated experience and wisdom, and his ability to persuade others to his views. Thus, the judgments of George Andrews on critical national problems were widely solicited and universally respected in Congress and in the executive branch of Federal Government.

Mr. President, George Andrews left us an example of a life devoted to public service. It is a rich heritage which can only inspire those who follow. In order to better appreciate the value of this heritage, I think it would be helpful to look to what I think were some of the main sources of George Andrews' strengths. Let us begin with the services conducted in the century-old Baptist Church in George Andrews' hometown of Union Springs, Ala. Chaplain Edward G. Latch, of the House of Representatives, was speaking. He said, speaking of our dear friend, George Andrews:

He was born in Alabama, he was educated in Alabama, he was elected to Congress from Alabama, and he loved the people of this community, the people of the Third Congressional District, and the people of Alabama.

A friend of George Andrews, in commenting on this observation, said:

Yes, it was a mutual love affair.

Those who knew George Andrews could not agree more. To demonstrate the truth of this observation, George Andrews was elected and reelected to Congress for 14 consecutive terms and always without meaningful opposition.

Mr. President, I suggest that there are very important but sometimes overlooked factors that help to account for this remarkable record of confidence in George Andrews. It was obvious that he faithfully reflected the sentiments of the vast majority of the people of his district. It is equally obvious that he served administratively his constituency ably and well and the interest of his district with extraordinary efficiency. But there is more to political success than merely doing what is expected.

George Andrews not only represented the sentiment and interests of his people, but he also personified the best in the traditions of a State and region—the traditions of a people whose hearts and minds were and will ever remain united in devotion to a common heritage. And here, I believe, is the touchstone of his character and his great success. A part of that common heritage is reflected in principles and values by which public service is judged an honor, a trust, and a high distinction. Those of this tradition know that the objects of public office are not power or ephemeral fame but service and continuing opportunity to help promote the well-being of one's fellow man.

But George Andrews shared with the people of Alabama more than a common attitude toward public service. He shared with them a philosophy of government. He believed in constitutional government, a strong national defense, and sound fiscal and monetary policies. His affirmance of these ends automatically placed him in opposition to judicial activists, social engineers, the advocates of disarmament and no-win wars, and peace at any price. By reason of his shared principles—principles that he shared with the people of Alabama—convictions, and goals, he opposed communism, fascism, and other brands of statism. In his beliefs and actions he mirrored the convictions of his constituents and the people of Alabama. He was consistent, steadfast, loyal to his friends, and true to his country, its institutions, and the principles upon which they were founded. In fact, the people knew where George Andrews stood on any and all issues. The expression, "You can count on George Andrews," was not a political slogan but a universal judgment and compliment.

Mr. President, I think it was loyalty to principles which accounted for the consistency of judgments which inspired confidence in George Andrews. Such consistency is indeed a virtue. On this point, I am reminded of what the great Justice Joseph Story once said:

He, who is ever veering about with every wind of doctrine and opinion, is possessed of feeble judgment, or feeble principles, or both. . . . As a guide or an example, he is equally unsafe; and it is difficult to say,

whether he does most injury as a friend or a foe....

This was not so with George Andrews. George Andrews always knew where he stood. He was steadfast to his principles and his convictions.

Of course, loyalty to principles does not imply a refusal to change an opinion on a subject. George Andrews was open-minded—subject to persuasion but not to compromise on fundamental principles. Yes, the people knew where George Andrews stood on principles, and they knew his convictions and they loved and respected him.

Thus, Mr. President, in paying our respects to the memory of our good friend and associate, we honor also the people of Alabama with whom he shared a common heritage and tradition. While the career of George Andrews is ended, the example of his life will linger on in the hearts and memories of all who knew him—and that includes all the people of Alabama.

Mr. President, the people of Alabama mourn the loss of George Andrews. They mourn with his widow Mrs. Elizabeth Andrews, with his son George W. Andrews III, a lieutenant junior grade in the Navy and with his daughter, Mrs. Jane Hinds. Speaking for myself individually and for Mrs. Allen, we extend our deepest sympathy to the fine family of Representative Andrews.

Mr. President, editorial comment and news accounts from several State and local newspapers in George Andrews' congressional district provide biographical data on the life of the man whose memory we honor and reflect a measure of the sense of his loss. I have chosen several illustrative examples and ask unanimous consent that they be printed in the RECORD.

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

[From the Union Springs (Ala.) Herald, Dec. 30, 1971]

REPRESENTATIVE GEORGE ANDREWS WILL BE MISSED

The untimely death of Representative George Andrews has left a void in this community, in the Third Congressional District, and in Alabama which is going to be hard to fill.

Chaplain Edward G. Latch of the United States House of Representatives described "George" this way, when he said, "He was born in Alabama, he was educated in Alabama, he was elected to Congress from Alabama and he loved the people of this community, the people of the Third Congressional District and the people of Alabama." And the people of the Third District loved and trusted George Andrews. They kept him in Washington for more than 25 years. It seems that he has always been there, like the Rock of Gibraltar, responding to the many needs of his constituents back home.

No one ever doubted where he stood on any issue at any time. He was one of the outstanding conservative stalwarts on Capitol Hill, and if one had to sum up his political philosophy in a few words they would have to describe George Andrews as one who stood for Constitutional Government and Fiscal Responsibility. He was also a supporter of maintaining a strong defense posture for America.

He was not only the dean of the Alabama Congressional delegation, but he was the second ranking member of the powerful House Appropriations Committee and was considered one of the House's more powerful members. He was also one of only three congressmen who served on major appropriations sub-committees: Defense, Public Works and Legislative, and he served as Chairman of the latter. At a time when many of his colleagues in Congress were supporting free-wheeling big federal spending and were in favor of treaties with Communist nations which would weaken our defense posture, he never changed his political philosophy.

He was among the first to see the advantages of locks and dams on the Chattahoochee river and he worked for many years to finally see his dream come true. He resisted Pentagon efforts to close Camp Rucker after World War II and he fought a holding action at Fort McClellan until it obtained permanent status. Through the lean years he helped to sustain the Alabama-Coosa river navigation up to Montgomery, and he helped to keep alive the Tennessee-Tombigbee waterway project.

One of his working habits while in Congress, regardless of work pressure, was to clear his desk and answer every communication that day. Whether it was a mother trying to locate her son in Vietnam, a school boy or girl seeking a summer job, or a plea for assistance on a waterway, George Andrews got to the heart of the problem quickly and the party on the other end received a reply or a phone call regarding the problem. One of his greatest pleasures was helping young people further their careers and those he has helped along the way are legion.

It may be true that there is no such thing as an indispensable person, but it is going to be hard to replace George Andrews. We are going to miss his voice in the House. America has lost a truly great statesman.

[From the Birmingham (Ala.) News, Jan. 2, 1972]

TRIBUTE PAID REPRESENTATIVE ANDREWS

(By Rev. Martin Stanley Beason)

For nearly five years, I handled publicity, research and constituents' mail for one of the greatest statesmen in Alabama's history. I performed a wide range of administrative services for him, and counted it an honor, but last Monday, I rendered my final service—I was a pallbearer for George W. Andrews.

The dean of Alabama's delegation in Congress had served 28 years and had risen to great seniority and power on the House Appropriations Committee. Through his influence, our state's major waterways have been developed and Fort McClellan and Fort Rucker have been kept open.

The legislative accomplishments of Rep. Andrews will remain obvious to generations of Alabamians, and there are many persons more highly qualified than I to analyze them. Therefore, I merely wanted to offer a very subjective glimpse of this gigantic but warmly human personality.

My first encounter with George Andrews occurred in early 1957, when, as a reporter with The Dothan Eagle, I covered a series of his speeches before the major civic clubs in Dothan. After each speech, he and I would have another cup of coffee and review my notes to make certain I hadn't misquoted him.

I was impressed by his accessibility. He was the first celebrity I had ever met on a more than superficial level. Furthermore, he showed genuine interest in me as a person, and he asked if I had any plans for the future. I told him that I wanted to become a public relations man, but had resigned myself to the seeming impossibility of achieving such a goal.

"How would you like to work for me in Washington, D.C., and get a master's degree in night school at one of the universities up there?" he asked.

This seemed like an unbelievable fantasy, but it all came true in November when I joined Rep. Andrews' staff in Union Springs. Just three months later, when Congress convened, I went to the nation's capital and enrolled at The American University. I received my master's degree in public relations in 1962.

Mr. Andrews' dedication to competent and thorough service to the people of Alabama was rapidly ingrained into the attitudes of all his staff members. While he demonstrated a kindly, even fatherly, concern for each of us, he was adamantly intolerant of careless work. He exacted the best from each of us.

All of these memories drifted back during the funeral sermon, and as the political giants of Alabama parted outside the church to make way for the pallbearers (myself and seven other men who owe a tremendous measure of their success in life to the man whose remains we bore), I could see that they, too, felt a keen sense of loss—maybe even the same personal loss that we felt.

Now that George Andrews is gone, I don't feel quite as safe. How do you replace a man of his stature? The only thing that really comforts me is my theory of a great man who reached out to help a young guy who could never reciprocate—that's my definition of statesmanship.

[From the Alexander City (Ala.) Outlook]

REPRESENTATIVE GEORGE ANDREWS

Alabama lost a great public servant when death last Saturday claimed Third District Congressman George W. Andrews of Union Springs.

Rep. Andrews, 65, represented his district, which included Alexander City and Tallapoosa County, long and well. A great indication of this lies in the length of time he was in public service.

He was elected in March 1944, in absentia, to fill the unexpired term of Rep. Henry B. Steagall who, like Rep. Andrews, died in midterm. He then went on to 14 consecutive terms in Congress, the majority without opposition.

Prior to becoming a member of Congress, Rep. Andrews served as circuit solicitor (district attorney) for the third judicial circuit from 1931–43, thus compiling a total of some 40 years in public service.

Rep. Andrews was the 17th ranking member of Congress in years of service and was the second ranking member of the House Appropriations Committee and was considered one of the most powerful members. He also was a member of the defense, public works and legislative appropriations subcommittee, being chairman of the latter.

The public owes a great debt of gratitude to Rep. Andrews for his service, not only those of us within his district, but thousands of others outside it. He labored long and hard to keep the Army from closing Fort Rucker years ago. Today it's the Army's flight center for helicopter training. He worked tirelessly on behalf of Fort McClellan years ago to keep it open. Today it's the Army's WAC headquarters.

For years Rep. Andrews was the bulwark in furthering Alabama's navigable waterways network. There were countless other instances where Rep. Andrews stepped in to protect and further the best interests of his beloved Third District and Alabama.

Rep. Andrews will be sorely missed by those of us in his district and by all Alabamians.

[From the Clayton Record]

SOUTH'S GREAT LOSS

Congressman George Andrews death is a great loss to the South.

Andrews, a native of Clayton, who often

visited his aunt, Mrs. Irene Andrews Ventress, would sit on the porch here of the Andrews home and recollect interesting events during his younger days.

We have gone through the files of The Clayton Record and a number of other newspapers. Many times Andrews has told us that Bill Gammell of this newspaper was the first editor to editorially endorse him. So we looked at our files of March 24, 1944 which reads: "House Democrats gained their 326th member and the Navy released a lieutenant (jg) Monday as George W. Andrews Jr. took the oath of office as Representative from Alabama's Third District.

"Back from active duty at Pearl Harbor, Andrews barely had time to change from navy blue to a business suit for the noon ceremony less than an hour after the Navy placed him on the inactive list.

"He succeeded the late Henry B. Steagall.

"House Democrats now number one more than the bare majority they have been holding since the death last week of Rep. O'Leary (D., N.Y.)

"The new representative was presented to the House by Rep. Starnes, dean of the Alabama delegation. Members of the delegation presented him to Speaker Sam Rayburn (D., Tex.) and Majority Leader John McCormack (D. Mass.) at a luncheon in the speaker's dining room.

"Luncheon guests were Mrs. George Andrews, Jr., Mrs. George Andrews, Sr., Mr. and Mrs. Fred McClendon, Mr. and Mrs. E. C. Clouse, Walter Brackin, Miss Etta Claire Bracklin, Mr. and Mrs. Winton M. Blount, Miss Jo Ann Clouse and Lt. Boykin Haynes all of Alabama."

Rep. Andrews will be hard to replace in the South. He served his country in many ways, in the Navy and as Congressman. He was loved and admired by his personal friends as well as political friends. His death is indeed a great loss.

[From the Opelika-Auburn Daily News, Dec. 27, 1971]

ANDREWS BURIED IN UNION SPRINGS

UNION SPRINGS, ALA.—Funeral services for U.S. Rep. George Andrews, D-Ala., who died Saturday in Birmingham, were held today at 2 p.m. at the First Baptist Church here.

Andrews was 65. He underwent surgery Friday for the second time in the past three weeks. His first operation, on Dec. 9 at Birmingham's University Hospital, was to repair a weakening of the aortic artery.

A hospital spokesman said the veteran congressman was recovering normally until Friday, when he developed symptoms of an infection.

Andrews was the dean of Alabama's legislative delegation, and was the third ranking member of the House Appropriations Committee. He was one of three congressmen to serve on major appropriations subcommittees, including defense, public works, and legislative.

Gov. George C. Wallace, a close friend of Andrews', canceled all his appointments for today to attend the funeral, a capital source said.

The 17th ranking member of Congress in years of service, Andrews was elected to the 78th Congress in March of 1944 to fill the unexpired term of Rep. Henry B. Steagall who had died, and had won 14 times since.

A native of Clayton in Barbour County, Andrews afterward called Union Springs home. He received both undergraduate and law degrees from the University of Alabama and served as circuit solicitor for the state's third judicial circuit (Barbour, Bullock, Russell and Dale Counties) from 1931–43.

At the time of his election to Congress, Andrews was a Lieutenant (jg) in the U.S. Navy at Pearl Harbor and won the post in absentia. His campaign was run by his brother.

In his 28th year (15th consecutive term) in Congress at the time of his death, the colorful Andrews was expected to run for re-election next year.

Andrews was the second ranking member of the House Appropriations Committee and was considered one of the most powerful members of the lawmaking body.

Andrews, had suffered from an "aneurysm of the aortic artery where it goes through the abdomen," a hospital spokesman said. He had receved a plastic graft in surgery Dec. 9 for correction of the condition, described as a "weakening and enlargement of the artery."

However, the hospital spokesman said Andrews developed complications and a "re-operation" was required.

"The surgery was performed Friday afternoon," the spokesman said. "It revealed an intra-abdominal infection, perhaps related to an acute appendicitis.

"Although Congressman Andrews condition was serious following surgery, he tolerated the operation well. In the subsequent 12 hours. the combination of the second operation and severe infection resulted in a rapid deterioration in his general condition and succumbed at 7 a.m. Saturday.

Andrews gained a reputation for being a watchdog of federal finances as a member of the Appropriations Committee. He was usually re-elected easily and ran at the top of the ticket when Alabama congressmen ran at large in the early 1960's when the legislature failed to cut down the number of districts from nine to eight.

[From the Birmingham (Ala.) News Sun, Dec. 26, 1971]

HOUSE SPEAKER LEADS TRIBUTES

(By James Free)

WASHINGTON.—Speaker Carl Albert, D-Okla., best summed up the reaction of House colleagues to the death Saturday of Rep. George W. Andrews, D-Ala., at the University of Alabama Medical Center in Birmingham.

"I am deeply shocked," said Albert, "for George Andrews was not only the dean of the Alabama House delegation, a strong member of the Appropriations Committee and an outstanding legislator, but he possessed warm qualities that made him a close personal friend to me and many others.

"He had wit and impromptu humor and a rare talent for telling stories to bring home important points of discussion. He was third-ranking Democrat on the Appropriations Committee. As chairman of the Appropriation Subcommittee that handles funds for operations of the legislative branch, Andrews had an irreplaceable knowledge of the various functions of the Congress.

"He will be sorely missed."

The Union Springs congressman's death came less than two weeks after his 65th birthday on Dec. 12, and after nearly 28 years of service in the House. It was something of a surprise, for up to late this week he had been progressing as well as could be expected, according to medical reports, following an operation early this month to correct an aneurysm of the aorta (a weakening of the main artery in the circulatory system).

The fatal complication reportedly was an abdominal infection, which required a second major operation.

Andrews' aneurysm was discovered in a routine medical examination in Washington late last month. Before leaving for Alabama and a double-check by nationally respected experts at the University Center, Andrews told this reporter that "I have never had a serious illness in my life."

Sen. John J. Sparkman, D-Ala., in paying tribute to Andrews, said "He performed invaluable service not only to the constituents in his own congressional district, but to all Alabamians. Our delegation in Congress has worked as a team over the years, but George's considerable influence on the Appropriations Committee was invaluable in a number of critical situations."

The Alabama senior senator, who was himself a member of the House when Andrews came to Washington in 1944, gave these as some of Andrews contributions:

Keeping Camp Rucker, a World War II infantry training base, on a stand-by status after that war and after the Korean War—resisting Pentagon efforts to close it. And later pressing successfully for its use as an Army aviation training center. It is, of course, now Ft. Rucker, "the" Army Aviation Center.

A similar holding operation at Camp, now Ft. McClellan, until it received permanent assignment as the center for the Women's Army Corps and the chemical warfare school.

Opening of a navigation system from the Gulf up to Phenix City, on the Chattahoochee River.

Helping sustain the proposed Alabama-Coosa navigation system on an active basis through lean years, and seeing it through to completion so far up to Montgomery.

Helping keep alive the now court-delayed Tennessee-Tombigbee waterway project.

A potent assist in getting the University of Alabama Medical Center in line for one of the new regional cancer centers called for in President Nixon's intensified war on cancer. A key part will be the Lurleen Wallace Memorial Hospital, for which more than $5 million has been raised in local contributions.

Andrews is survived by his wife, the former Miss Elizabeth Bullock of Geneva; a daughter, Mrs. Jane Andrews Hinds of Greensboro, N.C., and a son, George W. Andrews Jr. of Washington, D.C.

Andrews had been a close friend of three other south Alabamians who achieved national fame in recent years.

Andrews was born in Clayton, home town of George C. Wallace. The two long have been mutual admirers.

The congressman was an old friend of Adm. Thomas B. Moorer, a native of Mount Willing and legal resident of Eufaula, Andrews and his associates on the Defense Appropriations Subcommittee saw to it that Moorer got the fullest consideration for elevation from Navy chief of operations to chairman of the Joint Chiefs of Staff. And that consideration was enough to get Moorer the top career defense position.

Andrews first campaign for Congress, back in 1944 when he was a junior naval reserve officer serving at Pearl Harbor, was run by Winton M. Blount, Sr., father of the former postmaster general. And "Red" Blount's mother worked with Andrews in his Washington office for several years.

After his graduation from the University of Alabama law school in 1928, Andrews practiced law in Union Springs for three years before his election as circuit solicitor for the third circuit comprised of Barbour, Bullock and Dale Counties. He was proud of his 12 years in this position, and some of his best stories were based on his experiences in the courtroom.

Due to his long service in Congress, Andrews for several years has been eligible for a substantial congressional pension—one which would have given him a higher take-home pay than his active service salary. He had often talked of possible retirement, or returning to law practice in south Alabama. But he often said: "I owe too much to my people to quit, so long as they want me to serve them in Washington."

[From the Andalusia (Ala.) Star-News, Dec. 30, 1971]

CONGRESSMAN GEORGE W. ANDREWS

Some of our strong prejudices will missile to the surface when death claims a friend. This happened on Christmas morning when Congressman George W. Andrews, of Union Springs, died in a Birmingham hospital.

For South Alabama and the Wiregrass

corner of this state, an area that Congressman Andrews represented for 28 years in the U.S. Congress, this is a terrific loss, for George Andrews carried weight and impact in the national political scene.

George Andrews was the second ranking member of the powerful House Appropriations Committee. The force of his power and authority in Washington is mirrored in the millions of dollars that have been expended at Fort Rucker; in the development of the Chattahoochee River valley, where the Alabama Power Co., is currently spending millions of dollars; and at Fort Benning, an Army installation at Columbus, Ga., that spilled over to the Alabama side of the Chattahoochee to gain some extra Federal funds with George Andrews in the driver's seat up on the banks of the Potomac.

There was more to George Andrews' tenure in Washington than in keeping the home fires burning. Any man who stays in Washington for fourteen two-year terms has to have strong ties "back home."

If that is a sin, this editor is going to plead guilty right along with George Andrews right here and now. When Congressman Andrews first went to Washington almost three decades ago, the policies were established and this editor, as the Executive Secretary of Congressman Andrews, was handed the duties of keeping the communications warm between Washington and the Third Alabama District.

As George Andrews gained experience on the House Appropriations Committee, his outlook and approach to governmental affairs widened and he had a big hand in expanding the military might of this nation.

Because he was a conservative, George Andrews was never given the credit he deserves for spurring economic assistance to poverty nations along with his voting to put muscle into the Naval, Army and Air arms of Uncle Sam's military.

George Andrews' Congressional service played every key in the scale. At his funeral in the First Baptist Church of Union Springs the chaplain of the U.S. House of Representatives, Dr. E. G. Latch, stood before a filled sanctuary, with the crowd overflowing out of the downstairs fellowship hall and into the street, and stated: "This was a good man, a good man."

That is the gospel truth. We base our opinion on four years spent at the right hand of Congressman George Andrews.

Mr. STENNIS. Will the Senator from Alabama yield?

Mr. ALLEN. I am happy to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I came into the Chamber during the remarks of the Senator from Alabama. I commend the Senator from Alabama very highly for his fine words and his eloquence concerning our departed friend, George Andrews.

I did not know that the Senator was going to speak at this time or I would have had some prepared remarks of my own. However, let me say that I could not have been more shocked or grieved at the loss of a colleague than I was when I heard of the passing of Representative Andrews.

I was his neighbor. In Alabama and Mississippi we lived in adjoining States. We were neighbors here in the Northwest part of the city of Washington. I loved the man. He came to me last fall to invite me to his State. He was so friendly that he almost made me go. However, there was a pending bill that several Senators had promised to get ready for consideration, and I was interested in the matter; but when I was told that George Andrews was ill, I readily agreed that the matter go over.

I again commend the Senator from Alabama for his forcefully directing the attention of the Senate and those who knew him, and also his constituents, to the passing of Representative Andrews. He represented a tradition in the House that was of the very best and highest prerogatives and aspects. Moreover, he represented the people who elected him to that office 14 consecutive times and represented them according to the finest principles of our system. May God rest his soul.

Mr. ALLEN. Mr. President, I thank the Senator from Mississippi. I know that George Andrews loved and admired and respected the Senator from Mississippi. We have always followed his leadership.

I appreciate, and I know that the family of George Andrews will deeply appreciate, the kind remarks made by the distinguished Senator from Mississippi (Mr. STENNIS).

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business until 12:30 with each Senator limited to 3 minutes. Is there morning business?

THE FOOD STAMP PROGRAM

Mr. AIKEN. Mr. President, as a longtime advocate of the food stamp program, which virtually had its genesis in Vermont where I could observe its operations just prior to World War II and judge its potential for the future, it goes without saying that I have found efforts to use this worthwhile and needed program for personal purposes abhorrent—to say the least.

For 20 years after coming to this Senate, I, with certain of my colleagues, tried futilely to get this program reestablished.

It remained for Congresswoman LEONOR SULLIVAN to get the program approved by the House in 1964.

It was sent to the Senate where we had little difficulty in securing its passage.

Even before its enactment, Secretary of Agriculture Orville Freeman had set up the machinery for putting the food stamp program into effect again—for the purpose of helping poor people to have proper and adequate nourishment.

The procedure set in motion in 1965 got underway modestly and continued its cautious progress until the election year of 1968.

In fiscal 1968 the amount provided by Congress for food stamps was only $185 million.

This was increased to $280 million for fiscal 1969.

After the administration changed hands, however, there was a radical change in the attitude of Congress toward food stamps.

Proposals were made to permit the use of these stamps for purposes which had very little relation to the dietary process.

The upshot of all this commotion was that for fiscal 1972 Congress appropriated nearly $2.3 billion for the program, an increase of over 700 percent in a 4-year period.

Of course the inevitable happened.

With insufficient experienced personnel, the program got messy.

Abuses became widespread.

Some undeserving persons got the benefits while some needy persons were overlooked completely.

In an effort to curb abuses, the U.S. Department of Agriculture last year wrote new regulations but these new rules were so complicated that to comply with them some areas would have incurred losses rather than benefits.

The uproar increased in volume and most every candidate for office from dog catcher to President found himself concerned with the diets of the poor.

A lot of voters became concerned, too.

Several States, including my own State of Vermont, found that the new regulations would create hardships on the State itself and felt that it might be more advantageous to give up the program.

Under such circumstances, Federal officials realized that some revised action should be taken.

Apparently, the new Secretary of Agriculture, Earl Butz, was given a free hand to bring order out of near chaos.

He lost no time and on January 16 released a substitute for the objectionable regulations.

Under the new order there will be no reduction in the number of persons presently eligible for food stamps and no reduction in benefits.

Neither will there be any reduction in cost to Government.

In fact, there may be a substantial increase.

There will undoubtedly be some cheating but this will not distinguish the food stamp program from programs which are participated in by some that are not always needy.

It will be difficult to administer the expanded program and supervision may not always be of the highest order.

But in this case the Secretary had to choose between the possibility of waste and mismanagement and depriving a percentage of poor and deserving people of their just benefits.

Under our court system, it is deemed better to permit a guilty party to escape than to convict an innocent person for a crime he did not commit.

I believe that this principle should also apply to participants in the food stamp program.

Secretary Butz is to be commended for his prompt action and for meeting the issue head on.

Now that the Secretary has taken positive action, I feel that it is the duty of all of us to see that it is made to work fairly, adequately, and honestly.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 499) providing for a joint session to receive the President of the United States on January 20, 1972, in

which it requested the concurrence of the Senate.

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

H. Res. 758. Resolution relating to the appointment of a committee to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make;

H. Res. 759. Resolution informing the Senate that a quorum of the House is present and that the House is ready to proceed with business; and

H. Res. 766. Resolution communicating to the Senate the intelligence of the death of Hon. George W. Andrews, late a Representative from the State of Alabama.

The message further announced that the House had passed a bill (H.R. 8787) to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a delegate to the House of Representatives, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8787) to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a delegate to the House of Representatives, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

DEATH OF REPRESENTATIVE GEORGE W. ANDREWS OF ALABAMA

Mr. ALLEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Resolution 766.

The President pro tempore laid before the Senate a resolution (H. Res. 766) which was read as follows:

Resolved, That the House has heard with profound sorrow of the death of the Honorable George W. Andrews, a Representative from the State of Alabama.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Mr. ALLEN. Mr. President, on behalf of my distinguished senior colleague (Mr. SPARKMAN) and myself, I submit a resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution offered by the Senator from Alabama will be read.

The resolution (S. Res. 225) was read, considered, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. George W. Andrews, late a Representative from the State of Alabama.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

THE WEST COAST DOCK STRIKE

Mr. PACKWOOD. Mr. President, the west coast dock strike has started again. For about 15 weeks the Pacific coast docks were in operation because of the 80-day injunction under the Taft-Hartley Act. The injunction has now expired and there is no law on the books that can in any way guarantee maritime transportation to the farmers, businessmen, and consumers of the Pacific coast.

For almost 2 years the administration has had before the Senate a bill which would guarantee continuity of services in the transportation industry. The Committee on Labor and Public Welfare of the Senate has had 8 days of hearings. Nothing further has been done. I fear there is a general feeling in the committee that nothing should be done other than create a 2-year study commission to study the problem.

This problem does not require any more study. In the 3 years since I have been in the Senate we have been faced with five emergency transportation crises: four in the railroad industry and one in the longshore industry. We may soon be faced with a resumption of the longshore strike on the east coast after the 80-day injunction under the Taft-Hartley Act expires. The same is true with respect to the gulf coast.

I, therefore, have written a letter to the chairman of the Committee on Labor and Public Welfare asking that the committee be called into session and kept in continuous session until some type of emergency legislation is reported to guarantee transportation services to the people of this country.

Mr. President, the public can no longer tolerate the strangulation of our economy by a few small but powerful interests, who have the ability to bring our economy to its knees. The public has a right to make a normal living and to collect a normal wage, without arbitrary interruptions by a variety of transportation strikes.

Secretary Butz yesterday spoke dramatically of the effect that the west coast dock strike will have on farmers in the West and Midwest. It borders on the ruinous. If there are strikes on the east coast and the gulf coast, we will see an economic decline in this country at a time when we desperately are trying to stimulate the economy.

Mr. President, I ask unanimous consent to have printed in the RECORD the speech given by Secretary Butz relating to the dock strike.

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

BUTZ CALLS FOR IMMEDIATE PASSAGE OF DOCK STRIKE LEGISLATION

WASHINGTON, January 17.—"The resumption of the dock strike on the West Coast is a sad day for American farmers. It will further depress farm prices and cause a deterioration in the farm export markets that are so vital to the welfare of the Nation's agriculture," Secretary of Agriculture Earl L. Butz said today.

"The resumption of the 100-day strike on the West Coast points up the failure of the leadership of the present Congress to provide the Administration with the means to deal effectively with the dock strike and other transportation emergencies," Secretary Butz said.

"Farmers have already lost hundreds of millions of dollars since the dock strike started last July 1. During this time, Congress fiddled and stalled and wrung its hands over distressed grain prices, but did nothing about providing a solution to the strikes that were depressing farm prices and shrinking farm income," the Secretary said.

"If the leaders in Congress really want to do something for farmers, they will stand up in Congress tomorrow and demand that the Administration's legislation be passed immediately," Secretary Butz said.

"Farmers realize that they are going to suffer a dismal reduction in farm exports this fiscal year and that Congress has failed to provide a sensible solution for the Administration to use to deal with prolonged dock strikes," Secretary Butz said.

"Even worse than the present loss of income to farmers is the fact that purchasers of U.S. farm products have told our Government representatives that they are turning to other countries for future supplies because of the undependability of our delivery system," Secretary Butz added.

"This should be ample evidence that this Nation needs a better, more sensible system for dealing with strikes that so vitally affect the well-being of so many of the Nation's citizens," Secretary Butz said.

Secretary Butz said:

"It has been nearly two years since President Nixon proposed to Congress a realistic solution to emergency disputes in transportation. Since the dock strikes started last July 1 on the West Coast, and on October 1 at East Coast and Gulf ports, the Department of Agriculture has diligently kept the Congress informed of the serious damage being done to farmers. The Department of Agriculture has testified before Congress on the Administration's bill. I have repeatedly called on Congressional leaders to act, as did my predecessor, Secretary Hardin. On December 15, President Nixon publicly requested Congress to consider the seriousness of the absence of statutory means to deal with further transportation emergencies. So far, all we have received is a deaf ear from the Congress.

"I implore the union leaders to bring this strike to an immediate solution, and for Congress to provide a sensible and realistic plan to deal with this and future disruptions in transportation."

The farm production from one harvested acre in four moves into export, meaning that the output from more than 70 million U.S. farm acres moves overseas each year. In the year ended last June 30, the value of farm exports reached an all-time high of $7.8 billion. Trade experts generally agree that farm export values will show a substantial drop from that level during the current fiscal year that ends next June 30.

Department of Agriculture authorities have estimated that the dock tie-up during the heart of the 1971 farm harvest cut 10 cents per bushel from the price of corn and perhaps as much as 25 cents per bushel from soybean prices. Secretary Butz has said recently that the dock strikes will cost farmers a billion dollars in income.

During the months of October and November 1970, the East Coast and Gulf ports moved $917 million worth of agricultural exports. In the same months in 1971, these ports moved only $400 million of agricultural exports. When the strike hit last October 1, more than 1,000 barges and 1,400 rail cars were brought to a standstill on the approaches to Gulf ports. Farm prices were depressed almost immediately.

The 100-day strike by West Coast dock workers which began July 1 reduced agricultural exports from the West Coast by $215 million during July–September compared with a year earlier. Major losses were

in wheat and perishable fruits and vegetables.

Only $6 million of tobacco were exported from the East and Gulf Coasts in October and November 1971, compared with $136 million during the same months a year earlier.

The Emergency Public Interest Protection Act that deals with transportation strikes has been before Congressional committees for nearly two years. It provides for measures to deal with transportation strikes after the expiration of the 80-day cooling off period provided in the Taft-Hartley Act. President Nixon invoked the Taft-Hartley Act on the West Coast last October 4; and applied it to the East and Gulf port strikes on November 27.

The 80-day cooling off period on the West Coast expired on December 24th and the unions agreed to continue working temporarily until today, January 17. The 80-day cooling off period for the East Coast and Gulf port strikes expires on February 14.

The Emergency Public Interest Protection Act authorizes the President to extend the cooling off period beyond 80 days; it authorizes the President to set up a special board to study the potential damage of a continued strike; and it provides for both parties to submit final offers to a panel that would select one of the offers as binding.

In a 1968–69 dock strike that was extremely costly to farm exports, the strike started on September 30, 1968. The Taft-Hartley Act was invoked by President Johnson on October 3, and the strike resumed on December 20 after the cooling off period had expired. It was April 13, 1969 before the strike was settled at all ports. The value of farm exports dropped drastically, and by the end of the fiscal year were $430 million behind the farm export value of the previous year.

Mr. PACKWOOD. Mr. President, yesterday the New York Times published an editorial entitled "Always Trouble on the Docks." I ask unanimous consent that the editorial may be printed in the RECORD.

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

ALWAYS TROUBLE ON THE DOCKS

The renewal yesterday of last year's hundred-day longshore strike in Pacific Coast ports reflects a triple breakdown—in the processes of collective bargaining, in the effectiveness of the nation's statutory safeguards against strike emergencies and in the credibility of Federal wage controls.

It is a bizarre abuse of union power that a single, rather rarefied issue affecting the mechanics of employer payments into a wage guarantee fund could result in an order to cut off deep-sea commerce in the West. It is doubly strange that such a hang-up should develop after employers and union had agreed on wage increases and other benefits extravagantly in excess of the Pay Board's loosely monitored guideposts.

Unfortunately, it is not surprising at all that the eighty-day injunction provisions of the Taft-Hartley Act have proved no adequate defense against a resumption of the strike. The feebleness of that protection has been proved over and over again in the last quarter-century in tie-ups of Atlantic and Gulf ports.

Now the Administration must rush to Capitol Hill with hastily improvised back-to-work legislation of the kind it has repeatedly had to devise in the railroads. But any formula the White House proposes for final settlement of the West Coast dispute opens up a Pandora's box of new woes in this shaky stage of wage stabilization.

If compulsory arbitration is decreed, the umpire designated by President Nixon almost surely would limit his ruling to the one unresolved issue and certify the rest of the package as independently agreed to by the parties. in effect, that would put a governmental imprimatur on wage raises of 32.2 per cent in a contract with less than eighteen months to run. Such a pact would represent a green light for Federal approval of the tentative accord reached ten days ago on the East Coast for increases of 41 per cent over three years; it would shatter respect for the 5.5 per cent annual standard set by the Pay Board.

For Congress to act on its own to legislate a settlement embodying the basic terms of the West Coast wage understanding would be even more destructive of the stabilization effort. What is required is a formula for limited ship operation that would meet national needs without stripping the wage regulators of the authority that unions insisted they be given to determine what pay increases are "unreasonably inconsistent" with their anti-inflation mandate.

Strikes and strike threats by overstrong unions cannot become the make-or-break element in a program essential to America's economic welfare.

Mr. PACKWOOD. Mr. President, the New York Times editorial calls upon Congress to alleviate the perpetual threat that hangs over this country because of the possibility of transportation strikes. Congress can no longer ignore its responsibility. We can not go along every 6 months meeting this problem crisis by crisis and passing ad hoc legislation. We must pass permanent legislation that allows unions and management, as well as the general public who depend upon our transportation system, to know what they can expect. I hope Congress will now be willing to face its responsibility and pass meaningful legislation to guarantee to all the people of this country continuity of transportation services.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Maryland is recognized.

(The remarks of Mr. MATHIAS when he introduced S. 3037 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDENT pro tempore. Is there further morning business?

BLACK LUNG

Mr. BYRD of West Virginia. Mr. President, on January 6, I had the privilege of testifying at a Senate Subcommittee on Labor hearing chaired by my colleague, Senator RANDOLPH and conducted in my hometown of Beckley, W. Va. The hearing received testimony on how improvements could be made in title IV of the Federal Coal Mine Health and Safety Act—on how the Federal Government could improve its benefits program for miners suffering from the dread disease of pneumoconiosis.

I ask unanimous consent that my remarks made before that hearing be printed in the RECORD.

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

STATEMENT OF SENATOR BYRD OF WEST VIRGINIA

Mr. Chairman, it is particularly appropriate that you have chosen this locale in the heart of the mining section of West Virginia, for a Congressional hearing to develop the case for improvement of the Black Lung Benefits Program (Title IV of the Federal Coal Mine Health and Safety Act). Many of the people most directly affected by that program reside here.

The aforementioned Act, adopted by the Congress in 1969, holds great promise for the eventual elimination of the coal dust in our underground mines, which constitutes one of the greatest hazards to the coal miner. However, the law's full effects will not be felt for many years. In the meantime, we have the Black Lung Benefits Program to assist those disabled miners who will not benefit from the improved safety conditions—a program which you and I, Mr. Chairman, cooperated in including in the overall Act in an effort to compensate those miners disabled by pneumoconiosis for the physical suffering and loss of earning power and also to benefit the widows of men so affected.

We have now observed the Black Lung program in operation for two years. As a result, we have seen dramatic benefits to a large segment of coal miners and their families. This program has restored or increased financial independence and personal dignity for over 260,000 workers and dependents, assuring them of greater capability to cope with their living needs and their extraordinary medical requirements. These workers had gone uncompensated under State programs under which workers with other occupational disorders had been awarded benefits.

However, the life of the Federal program, as provided by the Health and Safety Act, is about to expire. The Act presently diverts administrative responsibility for continuation of the program from the Social Security Administration of the Department of Health, Education, and Welfare to the Department of Labor in 1973, with claims to be processed through workmen's compensation agencies in the States. Those valid claims not compensable under State workmen's compensation laws would qualify for Federal payments from the Secretary of Labor, with the mine operators being liable to the United States in civil court proceedings for the amounts involved. Furthermore, we now are aware of many shortcomings and inequities of the program as it has developed. It is time now for the Congress to act to extend and refinance the program and to improve it so that it will, indeed, benefit all those disabled miners and families for whom its benefits were intended.

S. 2675, the bill which you have introduced, Mr. Chairman—and which I am pleased to have co-sponsored with you—should meet these needs.

First of all, we need to extend the life of this Federal program, the States in many cases not yet having established adequate programs to compensate workers for this irreversible disease.

Secondly, we must act to extend benefits to eligible children or orphans of miners disabled by black lung. It was an unfortunate oversight that the original Act failed to provide for such children.

We must also clearly establish that the black lung benefits program is not to be considered a form of workmen's compensation, which, under the administration of the social security system, has resulted in the application of the offset provision normally applied to social security disability benefits where the beneficiary is eligible for the two types of compensation. For a disabled worker to be expected to survive, support his family, and provide for the extraordinary medical needs occasioned by his illness on 80 per cent of his former average wage—is the height of injustice. I hope eventually to see the social security law also changed in this respect.

Finally, and of great import, the use of X-rays must not be the sole determinant

of the presence of pneumoconiosis to a compensable degree. Experience has shown the X-ray to be unreliable and inadequate, albeit useful, in establishing the presence and degree of pneumoconiosis. The British, who are far ahead of us in the recognition and the compensation of this disease, might be cited on this point. For example, The Annual Report, 1967–68, Medical Service and Medical Research, National Coal Board, Great Britain, stated, in part (quote): ". . . it was . . . rapidly apparent that the X-ray film was not, by itself, a reasonable measure of disability . . ." Moreover, the British Government Publication, "Pneumoconiosis and Allied Occupational Chest Disease," Ministry of Social Security, London, England, stated (quote):

"The disease (pneumoconiosis) is difficult to diagnose, especially in the early stages, and accurate diagnosis depends on three essentials—a high quality full-size radiograph of the chest, a full clinical examination (including lung function tests) and complete industrial history."

Mr. Chairman, we must act to extend deserved benefits to the many thousands of black lung cripples who have been arbitrarily and unjustly denied—whether by terms of the law or by the administrative approach—the compensation intended by the Congress for those who have been dealt a death blow (slow in action though it may be) by the occupation in which they have been engaged. My correspondence files will attest, as I am sure yours will, to the fact that many thousands in our own State have been shocked and cruelly disappointed to be advised that they may not participate in this beneficial program—despite the indisputable record of ten, twenty, thirty, or more years, spent below the surface of the ground, in extremely hazardous work, subject to rock falls, runaway cars, timber collapse, poison gas, bone-penetrating moisture and cold, and always the coal dust—the layers of black removable from skin and hair, but permanently coating vital lungs and leading to their break-down, to sleepless nights spent in racking coughs and near suffocation, followed by the natural deterioration of the rest of the body. These men, or their family members in their behalf, write letters to you and to me, as their Senators, stating that they are totally unacceptable for further employment in the mines, but are not deemed eligible for the compensation intended for them by the Congress.

We *must* remedy this. Some of our colleagues may feel that the coal miner must meet the same disability criteria applied to workers in other occupations, but, in all justice, I believe we must take recognition of the uniquely severe conditions under which the coal miner has labored and of the fact that, once incapacitated for this work at mid-point or near the end of his working life, he is not retrainable as are individuals who have worked in other occupations. He, usually, is not educated for work requiring sophisticated mental skills; he will not be up to any job requiring even ordinary physical exertion. Furthermore, in the region of the coal mines, there are few, if any, other jobs in which he might be employed. We cannot expect a man so spent in body and spirit to pull up stakes and relocate. The present economy and unarguable employment policies have doomed him to stagnation and a stake of marking time until death.

So, in simple compassion and justice, I believe that we must come to the provisions included in S. 2675. This bill would extend the benefits to those disabled, not solely by pneumonoconiosis, but by "pneumonoconiosis, or other respiratory or pulmonary impairments." Further, it would modify the definition of total disability so that "a minor shall be considered totally disabled when any respiratory or pulmonary impairment or impairments resulting from his employment in a mine or mines prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time."

Let us stop quibbling with dying men as to whether their lungs are riddled with black lung or whether they are affected with miners' asthma, or silicosis, or chronic bronchitis. And let us stop telling a man whose lungs have failed him—or predictably will do so—that he can qualify for a job operating some non-existent elevator or selling some produce in a highly competitive market. It is my hope that the Labor and Public Welfare Committee will recognize the merit and justice of this bill and recommend it to the Senate. Americans are a compassionate people, and I believe that the Congress should so represent them in dealing compassionately with this small group, assuring these disabled miners and their families of more certain assistance in their unique suffering and deprivation.

Mr. Chairman, if the new provisions proposed in S. 2675 can be enacted and if the administration of the program can be improved, based on experience with it to date, I hope that the result will be that no eligible miner and no eligible dependent will be denied his or her just benefits under the law.

As to the cost of the program, it will certainly rise with the improvements being considered, and it must be admitted that the program has proved more costly than was originally anticipated—because the true number of individuals disabled or killed by pneumoconiosis was not known at the time the legislation was enacted. However, it should be borne in mind that this program, unlike other Federal programs, is not expected to perpetuate itself and proliferate into the usual ever-expanding bureaucratic program. The cost, once having reached its peak when all presently eligible individuals have been brought into the program, can be expected to diminish. Improved dust conditions in the mines—called for in the basic Act—should, in time, eliminate pneumonoconiosis as a killer and crippler of men. In due time, therefore, the financial burden will lessen. I do not recommend that the States be pushed too fast to assume the cost burden, but I do feel that the States should be encouraged to gradually assume the burden, so as to gradually relieve the Federal government—which presently carries the total costs. Perhaps some program for gradual assumption by the States of the program could be written into the law.

In the same vein, Mr. Chairman, I want to emphasize what you already know—that the fight against crippling miners' diseases began a long time ago. In 1962, I added $100,000 to the HEW Appropriation Bill to establish a pneumoconiosis research, study, and rehabilitation project right here in Beckley; and the following year I amended the Public Health Service Appropriation Bill, adding $400,000 for expansion and acceleration of the research program on chronic chest diseases among coal miners.

Just this past November, I was honored to dedicate the new Appalachian Center for Occupational Safety and Health at Morgantown. The dedication of this $6 million laboratory climaxed six years of work, which began in 1964 when I restored $1 million in planning funds to the HEW Appropriation Bill. The following year, I added $266,000 to the Public Health Service appropriations for continuing research into miners' pulmonary diseases—vital work which is being conducted at the Morgantown facility, along with the testing and certification of mine health and safety equipment.

The Morgantown facility is of tremendous importance in the overall battle against unsafe and unhealthy conditions in our mines—and equally important in this struggle is the Mine Health and Safety Academy, a $13.5 million facility which, as a member of the Appropriations Committee, I was able to have properly funded and which I was able to have located here in Berkley. The Academy serves as an education and training center to expand and upgrade the health and safety expertise of mine management and mine workers, as well as that of Federal and State agencies responsible for health and safety.

I say all this in closing, Mr. Chairman, for two reasons: to show that the battle for improved mine health and safety must be fought on many fronts, and to underscore my intensely personal interest in this compassionate legislation which you and your subcommittee are shaping.

I suppose that I am the only one of 100 senators who grew up in the home of a coal miner. I do not know that to be a fact, but I believe it is a fact. I grew up in the coal mining areas of southern West Virginia—Raleigh County, Mercer County, and McDowell County—and my foster father was a coal miner, back in the days of the pick and shovel, and so I lived with coal miners in my home where my foster mother kept boarders.

At one time, she cooked for as many as twenty-eight boarders, who were all coal miners, and I have seen them have to get up in the dead of the night, and burn and inhale a powder, because of severe asthma brought on by working in the mines.

I have helped to carry coal miners to their graves on the rugged West Virginia hillsides. I have stood in the homes of weeping widows of coal miners, and I have seen the tears of their children.

I stood, when a boy, at the entry of a coal mine after an explosion, in which fathers of my school classmates were killed. No Mr. Chairman, the coal miners of West Virginia do not have to spend their money for postage to write to me asking for support for legislation to benefit them, because they know they have my support in the fight against black lung. My early life was a part of their lives, and I shall not forget them now.

I want to compliment this Committee, and to commend you, Mr. Chairman, for the good work you have done. I have had the honor of appearing before your committee in the Nation's Capital to testify on behalf of this legislation, and I am glad to present this statement to you here in my home county today.

Whatever we do in the legislative halls of Congress will, in my judgment, not to be too much; if anything, it may be too little for the disabled miners and their families.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER TO PROCEED TO UNFINISHED BUSINESS AT CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when morning business is concluded today, the

Chair lay before the Senate the unfinished business, S. 2515.

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

JOINT SESSION OF THE TWO HOUSES TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 499.

The PRESIDENT pro tempore. The Chair lays before the Senate a message from the House on Concurrent Resolution 499, which will be read.

The legislative clerk read the concurrent resolution (H. Con. Res. 499) as follows:

H. CON. RES. 499

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, January 20, 1972, at 12:30 p.m., for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AIME J. FORAND

Mr. PASTORE. Mr. President, it is my sad province to announce the sudden passing of a distinguished American, the former Congressman from Rhode Island, the Honorable Aime J. Forand.

He died suddenly last night at his retirement residence in Boca Raton, Fla., and my sympathy—as does the sympathy of all America—goes to his beloved wife, Gertrude.

Aime Forand was my lifetime friend and—in office—an able legislator, skilled parliamentarian, fabulous for his faithful attendance.

He will be immortalized as "The Father of Medicare"—the persistent advocate of the Forand bill that established Federal social responsibility toward our senior citizens.

The life story of Aime Forand—the overcoming of handicaps—the awakening to public service and its dedication to the well-being of his fellow Americans, can be an inspiration to all youth. America still offers opportunity if youth has the will to find the way.

Because I believe that the biography of this good and great man should be part of the current history of the Congress and be perpetuated to exert its influence on the future, I ask unanimous consent that the obituary of Aime J. Forand from the pages of the Providence Journal be printed in the RECORD at this point in my remarks.

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

[From the Providence Journal, Jan. 19, 1972]

AIME J. FORAND DIES: EX-RHODE ISLAND CONGRESSMAN

Aime J. Forand, often called the father of medicare because of his advocacy of medical care for the elderly while representing Rhode Island for 22 years in Congress, died last night at the age of 76.

He suffered a heart attack while having dinner with his wife at their Boca Raton, Fla., home and was pronounced dead at 8:45 p.m. in Boca Raton Hospital. He had lived in Florida for several years.

Mr. Forand chose not to run for reelection in 1960, and it was five years after he left Capitol Hill before the idea he had espoused for years became law.

When President Lyndon B. Johnson in 1965 signed the law aiding the elderly in their medical payments, Mr. Forand was present. He had first introduced the bill in 1957.

Remembering his unstinting work on behalf of the elderly, several Rhode Island communities in recent years have thought of Mr. Forand when it came time to dedicate housing for the elderly, and have named the buildings in his honor.

His health, however, never permitted him to journey back to Rhode Island for these celebrations.

Mr. Forand achieved political success by dint of his own perseverance. He went to work in a Blackstone Valley mill at the age of 14 to help support a meager family budget. His father, who had gone blind, and his mother were the parents of 16 children.

The future congressman quit Cumberland schools after the seventh grade, but his thirst for an education never abated. He attended Magnus Commercial School at night, took Columbia University corerspondence courses and read prodigiously.

He had been a pick and shovel laborer, a dump truck driver, a radio repairman, a private chauffeur, a grocery clerk, a lubricating oil salesman, a newspaperman, and secretary to two congressmen.

Mr. Forand also served an apprenticeship in politics as a two-term Democratic state representative from Central Falls.

His sponsorship of what became widely known as the controversial Forand bill, he once recalled, stemmed from his years in the General Assembly. There the late Barney McElroy, a Democratic colleague from Fox Point, annually introduced an old age pension bill backed by the Fraternal Order of Eagles.

Although his education was limited, precluding his attempted admission to law school in Washington, Mr. Forand in 1951 was the recipient of the honorary degree of doctor of laws conferred by Providence College.

The accompanying citation hailed him as a "consistently able and upright public servant" who had a "broad concept of social responsibility and citizenship" and an "unflagging devotion to democratic processes."

For 18 years Mr. Forand was a member of the powerful House ways and means committee on which he ranked No. 2 at the time of his retirement.

In the 1960 presidential campaign, he headed the Senior-Citizens for Kennedy Committee and after leaving Congress became chairman of the National Council of Senior Citizens, an organization devoted primarily to promoting enactment of a program of medical care for the aged under Social Security as later embodied in the King-Anderson bill. He also was named to a 25-man advisory committee on housing for senior citizens.

Mr. Forand once told an interviewer that he could have "made a gold mine" had he chosen to speak before scores of organizations in support of his plan.

"But I declined them all because I didn't want anyone to accuse me of making a racket of it and I think too much of the plan on its merits to risk that," he said.

The former congressman was short in height—5 feet 5¾ inches—and inclined to stockiness. He once weighed 214 pounds, but shortly before his retirement had reduced to 174. A man of pleasant appearance, he wore glasses, dressed conservatively.

Mr. Forand did not engage in the Washington social whirl.

"I duck everything" he explained on one occasion. "I'd rather go home and do my work than go to a function anytime. In the summer I like to putter around my vegetable garden."

Mr. Forand was born in Fall River on May 23, 1895, a son of the late Francis X. and Meliuce (Ruest) Forand. His parents moved to Cumberland while he was a small child.

During World War I he served in France for 12 months with the American Expeditionary Force as a member of the Motor Transport Corps. As a legislator, he afterwards championed many veterans causes, including the establishment of a veterans hospital in Rhode Island.

After the war he worked at sales jobs, became a court reporter and in 1922 ran and was elected as a Democratic candidate for representative from the Second Central Falls district. He was persuaded to run for the legislature by the late Joseph Cadoret, mayor of Central Falls and father-in-law of J. Howard McGrath. At the time Mr. Forand said he wasn't even sure who the governor of the state was.

He served until 1927 and then in 1929 became secretary to Congressman Jeremiah E. O'Connell, later presiding Justice of the Superior Court. In 1930 when Mr. O'Connell was appointed to the court Mr. Forand went to work for his successor, Congressman Francis B. Condon, later chief justice of the Rhode Island Supreme Court. Mr. Condon was elected to the bench in 1935 and Mr. Forand found himself without a patron but by then the Washington bug had bitten him.

"It began to look as though I would have to go to Washington as a congressman myself in order to stay there," he said.

WINS ELECTION

Charles F. Risk, a Republican, was elected in the first district to succeed Mr. Condon and Mr. Forand landed a state job as chief of the division of soldiers' relief and commandant of the R.I. Soldiers' Home at Bristol. He remained in it until 1936 when he ran for Congress himself and defeated Mr. Risk.

Two years later, when Republicans swept the state, Mr. Forand was defeated by Mr. Risk but came back in 1940 to turn the tables. In the interim he had been supervisor in Rhode Island for the federal census in District Two.

From then on, Mr. Forand was reelected every two years by healthy pluralities. Being of French extraction, he always polled a strong vote throughout the Blackstone Valley.

In January, 1943, he gained a covered seat on the ways and means committee and the same year was appointed by Speaker Sam Rayburn to the Board of Visitors of the U.S. Coast Guard Academy. In 1948 he served as board chairman.

As a member of the ways and means committee, he became chairman of the subcommittee on unemployment insurance and later was chairman of the subcommittee on technical and administrative problems of excise

taxes. In the latter capacity he presided over lengthy hearings that culminated in massive revision of the entire excise tax structure. A 925-page bill emerged that the House passed without a rollcall and "the Senate didn't even dot an I," Mr. Forand recalled.

PARLIAMENTARIAN

Mr. Forand specialized in tax legislation and also in parliamentary procedure. He studied the precedents and rules of order for the House and often was called upon to take the chair in the absence of the speaker. He was presented three gavels in appreciation of his work in chairing debate in three major pieces of legislation—the antilynching bill in 1937, the 44-billion-dollar defense appropriation bill and the civil rights bill.

In addition to his sponsorship of the old age benefits bill, Mr. Forand sponsored scores of other measures, among them federal reinsurance of precarious state unemployment insurance funds. He was a major participant in the successful battle for federal funds for flood control in Woonsocket and for the Fox Point hurricane dam.

Mr. Forand first introduced his old age medical aid bill in 1957 and waged an unsuccessful four-year fight for its enactment. The measure had the strong support of organized labor and other organizations, but aroused bitter opposition of still others, chiefly the American Medical Association and state medical societies. It likewise was opposed by the Eisenhower administration.

FALLS FAR SHORT

Finally when he voted for the Kerr-Mills bill in 1960, Mr. Forand told the House it "falls far short of what Congress should do." But the 1960 Democratic platform contained a flat endorsement of the approach to medical care originally advanced by him.

While a member of the House, Mr. Forand also had served on the joint congressional committee on atomic energy, was chairman of the House Democratic caucus in 1947–48 and was a member of the Democratic steering committee.

Mr. Forand's decision not to seek another term in Congress came suddenly in April, 1960. He had come to Providence to attend a meeting of the Democratic state executive committee and there urge the election of Judge John P. Cooney, Jr., as Democratic state chairman.

During his remarks to the committee, he announced he would retire at the end of the term he then was serving.

SURPRISED HIMSELF

"I have reached the point where I am exhausted," he said. Later he said his announcement had surprised even himself since he had not gone to the meeting with any intention of making it.

As a congressman he was one of the most conscientious. In 20 years of service in the House, he said, when running for reelection in 1958, he had answered 3,489 roll calls and had missed only 111.

During the Roosevelt administration, Mr. Forand was an ardent New Dealer and an equally loyal Fair Dealer during the Truman administration.

He was a member of the American Legion, Veterans of Foreign Wars, the Elks, Eagles, Knights of Columbus (Fourth degree), Club Marquette, LeFoyer, Franco-American and L'Union St. Jean Baptist d'Amerique. He was a founder and treasurer of Club de la Jeunesse Franco-American of Central Falls and an incorporator of the Young Men's Democratic League. In 1927 and 1928 he was treasurer of the Central Falls Democratic City Committee.

In retirement, Mr. Forand first lived in Maryland, and then in Pompano Beach, Fla., for several years before buying a home overlooking the Royal Palms Country Club in Boca Raton about four years ago.

At his home at 1600 Salle Pond Rd., he spent his time "just relaxing in the yard, enjoying Florida, taking it easy and receiving friends from Rhode Island and across the country," a neighbor said last night.

Mr. Forand is survived by his wife, the former Gerturude B. Bedard of Central Falls, and several brothers and sisters.

PRICE TAG FOR FEDERAL SUBSIDIES EXCEEDS $63 BILLION

Mr. PROXMIRE. Mr. President, during the past few weeks the Joint Economic Committee, of which I have the honor to be the chairman, has issued a study on Federal subsidies and has held 3 days of hearings on that subject. These were hearings on issues which have never before been examined altogether and in their totality. Up until now, no price tag has even been placed on them. Even under modest definitions our study indicated that they cost a minimum of $63 billion a year.

The McClatchy newspapers in California, namely, the Sacramento Bee, the Fresno Bee, and the Modesto Bee, carried an editorial on January 14 concerning the study and the hearings.

Some subsidies are good. Many are bad. Some achieve their purpose. Others do not. Some do not achieve their stated purposes as well as could be done by other methods. In some cases it would cost less for private enterprise to do the job. In some cases highly productive funds are removed from the private sector through taxation only to be spent on projects which have a much lower return on capital. That is what is known as waste and inefficiency.

But the major question and problem are that much of the subsidy payments are made mindlessly through complex or hidden methods for which no economic analysis or justification is made. In most cases we do not know what they are, how they work, what they cost, or whether they do the job or do it better or worse than other methods.

The time to focus attention on the way we spend billions is long overdue.

The McClatchy editorial makes these points and makes them clearly and succinctly.

I ask unanimous consent that their excellent editorial be printed at this point in the RECORD.

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

PRICE TAG FOR SUBSIDIES COMES HIGH

The House of Representatives-U.S. Senate Economic Committee has issued a report showing that various subsidies, both direct and indirect, cost the nation's taxpayers at least $63 billion per year.

That huge sum is about one fourth of total government spending and amounts to more than $308 for every man, woman and child in the country.

Outright cash subsidies amount to between $10 and $23 billion, tax subsidies $38 billion, federally-subsidized loans between $4 and $5 billion and so-called benefit in kind such as the postal system and public housing, $10 billion.

The subsidies cover a wide range.

There is one which goes to bee keepers and milk producers whose products become contaminated by poisons which have been registered and approved by the government.

One becoming effective this year will go to the owners of ponds on farms which are used to preserve and restore the nation's wetlands vital to waterfowl.

Another costing $95 million in tax revenue gives a special tax advantage to a citizen whose income is made in foreign lands.

U.S. Sen. William Proxmire of Wisconsin, chairman of the joint committee, summed up the situation thus:

"This mammoth subsidy system represents a mindless means of spending taxpayer's money. There is virtually no analysis of economic benefits and little analysis of the cost of these programs. Neither Congress nor the executive branch determines if alternative programs can do a better job."

Subsidies in general should not be condemned out of hand.

Some are essential for the welfare of the citizen and the economic health of the nation.

Others are of questionable value.

But too often the "good" subsidy is regarded as one which benefits yours truly and a "bad" subsidy as one which benefits the other fellow.

Congress should turn its attention to a thorough study which would result in separating the wheat from the chaff.

ARE OIL IMPORT QUOTAS OF IMPORTANCE TO NATIONAL SECURITY?

Mr. PROXMIRE. Mr. President, oil prices and phase II were the subject of hearings last week in the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee.

The hearings revealed a hodgepodge of conflicting oil policies whose only common theme seems to be "what's good for big oil is good for the Nation." We heard evidence from academics, independent segments of the oil industry, and the major oil companies. A common theme underlying most of the testimony was that our oil policies are not working to encourage domestic exploration, to protect our national security, or to encourage competition. As a matter of fact, the testimony we heard was just the opposite: Our conflicting oil policies are encouraging foreign rather than domestic exploration, our economy is being weakened by inflationary oil policies which are not responsive to our national security needs, and the independent segments of the oil industry are being driven out of business because the Government has failed to enforce the antitrust laws and because most of the Government's subsidies are going to the major international oil companies rather than the independent domestic companies.

Rather than belabor the point I ask unanimous consent that an article by Morton Mintz which appeared in the Washington Post on January 17, 1972, be printed in the RECORD at the conclusion of my remarks. Mr. Mintz, as Senators know, is one of the most respected reporters in Washington, and I think catches the essence of the hearings.

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

ARE WE SUBSIDIZING SUCCESS—OR ARE OIL QUOTAS OF IMPORTANCE TO NATIONAL SECURITY?

(By Morton Mintz)

The federal government has a greater direct impact on the prices of petroleum products—before, during or after price con-

trols—than on the prices charged by any other industry.

Each of 50 million American families, for example, pays an average of $100 per year more for fuels because of the import quotas that restrict inexpensive foreign oil.

In addition to this estimated $5 billion annual cost of quotas, the Treasury grants an estimated $4 billion a year in assorted tax breaks.

Why we grant such subsidies is, clearly, an important question; and now, in three days of hearings, a Joint Economic subcommittee has explored it.

Much of the testimony concerned the quotas. By keeping out foreign oil, the theory is, they stimulate domestic exploration. This assures that the supply of oil needed by the civilian economy will continue without interruption. The national security is thereby protected, or so the argument goes. That is the key, because national security is the only legal reason for the quota system.

The major oil companies (through trade associations they control), the Interior Department and a pro-industry legislator all strongly urged this line of reasoning.

In contrast, subcommittee chairman William Proxmire (D-Wis.) and independent economists and lawyers generally saw the great bulk of the benefits of a $9 billion annual subsidy for success flowing only to the major oil companies, which account for seven of the 20 largest industrial corporations.

An explanation indicated by evidence produced at the hearings—and, of course, rejected by advocates of federal intrusion in oil marketing mechanism—was simply that economic power was translating into political power.

The Internal Revenue Service, to take one item, determined, in the 1960s, that major firms operating in the Persian Gulf had so inflated their "posted" prices for foreign crude as to run up a $1 billion tax deficiency; the IRS settled for half of that—and has never gotten around to investigating the domestic "posted" prices. The IRS says its rules forbid disclosure of the identities of the companies, the sums each owed and the amounts they paid.

Attorney General John N. Mitchell, it developed, had shelved a request from his Antitrust Division for the civil equivalent of subpoenas for papers on the possible anticompetitive consequences of the proposed Trans-Alaska pipeline. A recommendation by the division staff for divestiture by eight of the nine huge firms that own Colonial Pipeline hasn't been acted on, though it was made six years ago.

One witness, Rep. Silvio O. Conte (R-Mass.), was asked to comment on the lag in the Colonial case, which actually came under investigation about nine years ago.

"The oil industry," Conte told Proxmire, "is the most powerful lobby and the most powerful unit we have in the United States."

If that seems an overstatement, try to imagine a more plausible explanation for the anomalies that fairly gushed forth at the hearing (and in earlier Capitol Hill inquiries, as well), such as:

In 1958, the year before President Eisenhower set up the quota system with an Executive Order, American oil companies listed exploration expenses of $650 million in this country and $255 million abroad. In 1969, after a dozen years of quotas, spending for domestic exploration had increased $75 million (11.5 per cent), while it had gone up $255 million (63.8 per cent) in foreign countries.

In the half-dozen years ended in 1970, the cost of quotas to the public increased by at least $7.4 billion—2.3 times as much as the increase in the companies' domestic exploration expenditures, for gas as well as for oil. Obviously, as Proxmire pointed out, a straightforward, honest subsidy for domestic exploration would be a bargain.

By barring low-price imports, quotas have worked to "Drain America First," said S. David Freeman, who until September headed the White House Energy Policy Staff. But, now, he said, we face "a major shortage of energy" unless we end the quotas—which the President can do with a stroke of the pen—or induce further domestic production. That, he said, would require price increases so large that the cost of quotas could climb from $5 billion to $10 billion a year. And this "would be contrary to our long-term security," Freeman said, because it would mean "really draining America dry." Besides, the Phase II controls appear "to rule out the kind of price increases the oil industry feels is necessary."

Without such price increases, one major oil company has suggested, we will end up by 1985 importing half of the nation's crude primarily from Arab nations. Ironically, Freeman pointed out, large price increases and heavy future reliance on Arab oil are "the very dire consequences which industry representatives suggested would take place if the quotas were abolished."

The nation is said to have an acute shortage of natural gas. The most immediate way to relieve it is either to use more oil, or to convert oil into synthetic gas. But the import quotas, supposedly protecting national security by preventing an energy shortage, keep out the oil that could ease the shortage.

Canada has larger oil resources than she needs for her own people. But, Freeman said, they will not be discovered, developed and brought to American markets so long as the United States maintains the quotas.

The quotas bar petrochemical feedstocks for use in a great variety of plastic and other products. "The security purpose of import controls does not apply to petro-chemicals," President Nixon was told last March in a memo prepared by the Justice Department's Antitrust Division and signed by Attorney General Mitchell.

While the public, through higher prices, is "taxed" $5 billion a year to keep foreign oil out, the major companies that are the principal beneficiaries have a tax incentive to explore and produce abroad: a 1953 Internal Revenue Service ruling allowing them to credit the "royalties" they pay foreign governments against the taxes they would owe the United States. The estimated tax loss is $1 billion to $1.25 billion a year.

In the 12 years of quotas, which bar independent wholesalers from importing petroleum products, including unleaded gasoline, their number in the Midwest has declined from 88 to 15.

The most devastating attack on the quota system—because of its source—came in February, 1970, from President Nixon's own Cabinet Task Force on Oil Import Control. Of the 13 Cabinet officers and other federal officials who were members and official observers, 10 agreed that the quota program "is not adequately responsive to present and future security considerations" and "is no longer acceptable."

The task force chairman was George P. Shultz, then Secretary of Labor. The President thought enough of him to make him director of the Office of Management and Budget—but thought so little of the condemnation of quotas by Shultz and others in the majority that he did not so much as mention their recommendation of tariffs as a substitute.

Instead, Mr. Nixon called attention to the divergence of views between th majority and the minority. Then he appointed a new Oil Policy Committee which, without formal discussions or working papers, approved retention of quotas. Thus he continued a massive intervention in the free market he extols.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR SENATORS TO SUBMIT SIGNED REQUESTS AT THE DESK TO ADD COSPONSORS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, for the remainder of the second session of the 92d Congress, Senators may submit signed requests at the desk to add cosponsors to bills and resolutions—joint, concurrent, or simple—without having to make such requests from the floor.

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

STANDING ORDER FOR RECOGNITION OF THE MAJORITY AND MINORITY LEADERS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, for the remainder of the second session of the 92d Congress, in each daily session, immediately following the disposition of the reading of the Journal or the approval of the same, 3 minutes be set aside for the recognition of the majority leader or his designee and 3 minutes be set aside for the recognition of the minority leader or his designee, if they so desire, prior to the recognition of other Senators.

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

ORDER FOR ADJOURNMENT UNTIL 11:30 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 11:30 a.m. tomorrow.

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

TRANSACTION OF BUSINESS FOLLOWING THE PRESIDENT'S ADDRESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I am authorized by the distinguished majority leader to state that following the President's address before the joint session of the two Houses tomorrow, the Senate will return and proceed with the further consideration of the unfinished business.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

LIST OF NASA EMPLOYEES WHO HAVE FILED REPORTS PERTAINING TO EMPLOYMENT

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a list of the present and former NASA employees who have filed reports with NASA pertaining to their NASA and aerospace industry related employment for the fiscal year ended June 30, 1971 (with accompanying papers); to the Committee on Aeronautical and Space Sciences.

REPORT ON TITLE I AGREEMENTS UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

A letter from the General Sales Manager, Export Marketing Service, Department of Agriculture, transmitting, pursuant to law, a report on title I agreements under the Agricultural Trade Development and Assistance Act of 1954 (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT OF NATIONAL FOREST RESERVATION COMMISSION

A letter from the President, National Forest Reservation Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON FINAL DETERMINATION ON INDIAN CLAIM CASE

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on the final determination of Docket No. 261, the Samish Tribe of Indians, plaintiff, against the United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT OF THE PUBLIC SERVICE COMMISSION FOR THE DISTRICT OF COLUMBIA

A letter from the Executive Secretary of the Public Service Commission of the District of Columbia submitting, pursuant to law, its report for the calendar year 1970 (with accompanying report); to the Committee on Appropriations.

REPORT OF THE ADMINISTRATION OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

A letter from the Administrator of the Agency for International Development submitting, pursuant to law, a report on the violation of section 3679, Revised Statutes, involving a revolving fund under the control of the Agency (with accompanying papers); to the Committee on Appropriations.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the "Limitation on salaries and expenses," Railroad Retirement Board, for the fiscal year 1972, had been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON FINAL DETERMINATION OF INDIAN CLAIM CASE

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, its final determination with respect to Docket No. 230, the Cayuga Nation of Indians of Oklahoma, plaintiff, against the United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT ON PROPERTY ACQUISITIONS OF EMERGENCY SUPPLIES AND EQUIPMENT

A letter from the Director of Civil Defense, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment, for the quarter ended December 31, 1971; to the Committee on Armed Services.

REPORT ON MILITARY PERSONNEL POLICY

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on military personnel policy (with an accompanying report); to the Committee on Armed Services.

REPORT ON CERTAIN FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE NAVAL AND MARINE CORPS RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on certain facilities projects proposed to be undertaken for the Naval and Marine Corps Reserve; to the Committee on Armed Services.

PROPOSED AMENDMENT OF SECTION 8376, TITLE 10, UNITED STATES CODE

A letter from the Assistant Secretary of the Air Force, transmitting a draft of proposed legislation to amend section 8376 of title 10, United States Code, to eliminate the requirement that an Air Force Reserve, or Air National Guard, officer serving on extended active duty in a temporary grade which is higher than his Reserve grade must apply for promotion to his next higher Reserve grade, when otherwise eligible (with an accompanying paper); to the Committee on Armed Services.

PROPOSED AMENDMENT OF TITLE 10, UNITED STATES CODE

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of the Navy to establish the amount of compensation paid to members of the Naval Research Advisory Committee (with an accompanying paper); to the Committee on Armed Services.

REPORT ON TRUTH IN LENDING

A letter from the Vice Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on truth in lending, for the year 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF COMPTROLLER OF THE CURRENCY

A letter from the Comptroller of the Currency, transmitting, pursuant to law, a report, for the year 1970 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms, for July-September 1971 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

STUDY OF UNSAFE AND UNSOUND PRACTICES

A letter from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a study of unsafe and unsound practices (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

DOCUMENT PUBLISHED BY FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Statistics of Interstate Natural Gas Pipeline Companies, 1970" (with an accompanying document); to the Committee on Commerce.

REPORT ON FLIGHT PAY

A letter from the commandant, U.S. Coast Guard, reporting, pursuant to law, on flight pay, for the 6-month period ended December 31, 1971; to the Committee on Commerce.

REPORT ON ADMINISTRATION OF FAIR PACKAGING AND LABELING ACT

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the administration of the Fair Packaging and Labeling Act, for the fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

REPORT OF SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, his report, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Commerce.

DELAY OF REPORT OF ECONOMIC DEVELOPMENT ADMINISTRATION

A letter from the Assistant Secretary for Economic Development, reporting a delay in processing of the report of the Economic Development Administration, for fiscal year 1971; to the Committee on Commerce.

REPORT OF INTERSTATE COMMERCE COMMISSION

A letter from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

REPORT ON PERMITS AND LICENSES ISSUED BY FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report on permits and licenses for hydroelectric projects issued by that Commission, for the fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

REPORT ON HEALTH CONSEQUENCES OF SMOKING

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the health consequences of smoking, 1972 (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION TO FACILITATE THE PAYMENT OF TRANSPORTATION CHARGES

A letter from the Assistant Administrator of General Services submitting proposed legislation to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges (with accompanying papers); to the Committee on Commerce.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

A letter from the vice president and general manager, Chesapeake & Potomac Telephone Co., Washington, D.C., transmitting, pursuant to law, a report of that company, for the year 1971 (with an accompanying report); to the Committee on the District of Columbia.

STATEMENT OF RECEIPTS, EXPENDITURES, AND BALANCES OF THE U.S. GOVERNMENT

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a statement of receipts, expenditures, and balances of the U.S. Government, for the fiscal year 1971 (with an accompanying report); to the Committee on Finance.

REPORT OF THE RENEGOTIATION BOARD

A letter from the Chairman, the Renegotiation Board, transmitting, pursuant to law, a report of that Board for the year 1971 (with an accompanying report); to the Committee on Finance.

REPORT OF BALANCES OF FOREIGN CURRENCIES ACQUIRED WITHOUT PAYMENT OF DOLLARS

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report of balances of foreign currencies acquired without payment of dollars, as of June 30,

1971 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY

A letter from the Director of the U.S. Arms Control and Disarmament Agency transmitting, pursuant to law, the annual report for the year 1971 on the 14 scientific or professional positions authorized for establishment in the Agency (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for December 1971 (with accompanying papers); to the Committee on Government Operations.

REPORT ON DISPOSAL OF EXCESS PROPERTY IN FOREIGN COUNTRIES

A letter from the Secretary of Health, Education, and Welfare, submitting, pursuant to law, a negative report covering the disposal of excess property in foreign countries, for calendar year 1971; to the Committee on Government Operations.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the General Manager, Atomic Energy Commission, reporting, pursuant to law, on the disposal of foreign excess property; to the Committee on Government Operations.

REPORT OF GENERAL SERVICES ADMINISTRATION

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, the 1971 annual report of that Administration (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Student Loan Insurance Fund Fiscal Year 1970," Office of Education, Department of Health, Education, and Welfare, dated January 12, 1972 (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 entitled "Office of Education Should Improve Procedures To Recover Defaulted Loans Under the Guaranteed Student Loan Program," Office of Education, Department of Health, Education, and Welfare, dated December 30, 1971 (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 entitled "Improvements Needed in the Administration of Contracts for Evaluations and Studies of Antipoverty Programs," Office of Economic Opportunity, dated December 28, 1971 (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 entitled "Need for Long-Range Planning for Avionics Development Programs," Department of the Army, dated December 28, 1971 (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 entitled "Opportunities for Improving Federally Assisted Manpower Programs Identified as a Result of Review in the Atlanta, Ga., Area," Department of Labor, Department of Health, Education, and Welfare, Department of Housing and Urban Development, dated January 7, 1972 (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 entitled "The Forest Service Needs to Ensure That the Best Possible Use is Made of Its Research Program Findings," Department of Agriculture, dated January 6, 1972 (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 entitled "Progress to Strengthen U.S. Government Foreign Tax Relief on Defense Expenditures Overseas," Department of Defense, Department of State, dated January 6, 1972 (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 entitled "Alternatives to Secondary Sewage Treatment Offer Greater Improvements in Missouri River Water Quality," Environmental Protection Agency, dated January 6, 1972 (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 entitled "Costly Replacement of Faulty Potting Compounds—a Protective Material—in Major Weapon Systems," Department of Defense, dated January 5, 1972 (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 entitled "Audit of Commodity Credit Corporation, Fiscal Year 1971," Department of Agriculture, dated January 14, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Increased Use of Financial Data and an Improved Tariff System Needed by a Military Airlift Command," Department of the Air Force, dated January 5, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORT ON STATUS OF COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on the status of the Colorado River storage project and participating projects for fiscal year 1971 (with an acompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT TO CONCESSION CONTRACT WITHIN LAKE MEAD NATIONAL RECREATION AREA, NEV.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract within Lake Mead National Recreation Area, Nev. (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON OPERATION OF THE COLORADO RIVER BASIN

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report entitled "1971 Operation of the Colorado River Basin, 1972 Projected Operations" (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT TO CONCESSION CONTRACT ON SOUTH RIM OF GRAND CANYON NATIONAL PARK, ARIZ.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract for the public on the South Rim of Grand Canyon National Park, Ariz. (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON RECLASSIFICATION OF CERTAIN LANDS OF THE HUNTLEY PROJECT IRRIGATION DISTRICT, MONT.

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on the reclassification of certain lands of the Huntley Project Irrigation District, Mont.; to the Committee on Interior and Insular Affairs.

REPORT ON PROCEEDINGS INSTITUTED BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

A letter from the Attorney General, transmitting, pursuant to law, a report with respect to proceedings instituted before the Subversive Activities Control Board, during the year ended December 31, 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF VETERANS OF WORLD WAR I OF THE UNITED STATES OF AMERICA

A letter from the national quartermaster, Veterans of World War I of the United States of America, Alexandria, Va., transmitting, pursuant to law, a report of that organization, as of September 30, 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF FUTURE FARMERS OF AMERICA

A letter from the chairman, Board of Directors, Future Farmers of America, Washington, D.C., transmitting, pursuant to law, a report of that organization, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF COMMUNITY RELATIONS SERVICE

A letter from the Director, Community Relations Service, Department of Justice, transmitting, pursuant to law, a report of that Department, for the fiscal year 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF AMERICAN REVOLUTION BICENTENNIAL COMMISSION

A letter from the Chairman, American Revolution Bicentennial Commission, Washington, D.C., reporting, pursuant to law, of the activities of that Commission; to the Committee on the Judiciary.

REPORT OF SUBVERSIVE ACTIVITIES CONTROL BOARD

A letter from the Chairman, Subversive Activities Control Board, Washington, D.C., transmitting, pursuant to law, a report of that Board (with an accompanying report); to the Committee on the Judiciary.

ADJUSTMENT OF STATUS OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders relating to the adjustment of status of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT ON A DEFECTOR ALIEN

A letter from the Commissioner Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on a defector alien, Petro Ascenso (with an accompanying paper); to the Committee on the Judiciary.

TEMPORARY ADMISSION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting pursuant to law, copies of orders entered relating to the temporary admission of certain aliens (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, dated December 15, 1971, transmitting, pursuant to law, reports concerning visa petitions according the beneficiaries of such petitions third preferences and sixth preference classifications (with accompanying papers); to the Committee on the Judiciary.

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, dated January 3, 1972, transmitting, pursuant to law, reports concerning visa petitions according the beneficiaries of such petitions third preference and sixth preference classifications (with accompanying papers); to the Committee on the Judiciary.

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning visa petitions according the beneficiaries of such petitions third preference and sixth preference classification, dated January 17, 1972 (with accompanying papers); to the Committee on the Judiciary.

STATEMENT ON JUDGMENTS RENDERED BY THE U.S. COURT OF CLAIMS

A letter from the Clerk, U.S. Court of Claims, Washington, D.C., transmitting, pursuant to law, a statement of all judgments rendered by that court, for the year ended September 30, 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON ADJUSTMENT IN THE NATIONAL SCIENCE FOUNDATION FISCAL YEAR 1972 PROGRAM

A letter from the Director, National Science Foundation, transmitting, pursuant to law, a report on adjustment in the National Science Foundation fiscal year 1972 program (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT ON NEED FOR EMERGENCY FINANCIAL ASSISTANCE TO MEDICAL AND DENTAL SCHOOLS

A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the need for emergency financial assistance to medical and dental schools, including recommendations for appropriate administrative and legislative action (with an accompanying report); to the Committee on Labor and Public Welfare.

PROGRAM RELATING TO DRUGS ON THE MARKET

A letter from the Director, Office of Legislative Services, Food and Drug Administration, transmitting, for the information of the Senate, a program to assure that all drugs on the market are safe and effective, in accordance with the law (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON ACTIONS TAKEN WITH RESPECT TO SCIENTIFIC AND PROFESSIONAL POSITIONS

A letter from the Deputy Assistant Secretary, Management and Budget, Department of the Interior, reporting, pursuant to law, on actions taken with respect to scientific and professional positions, during the calendar year 1971; to the Committee on Post Office and Civil Service.

REPORT ON SCIENTIFIC AND PROFESSIONAL POSITIONS

A letter from the Director of Personnel, Department of Commerce, transmitting, pursuant to law, a report on scientific and professional positions, for the year 1971 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT ON GS–17 POSITIONS IN ADMINISTRATIVE OFFICE OF THE U.S. COURTS

A letter from the Director, Administrative Office of the U.S. Courts, reporting, pursuant to law, on the GS–17 positions in that Office; to the Committee on Post Office and Civil Service.

REPORT ON POSITION IN GRADE GS–18

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on a position in grade GS–18 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT RELATING TO DISPOSAL OF RECORDS

A letter from the Acting Administrator, General Services Administration, reporting, pursuant to law, on the disposal of records; to the Committee on Post Office and Civil Service.

PROGRESS REPORT OF COMMITTEE ON MOTOR VEHICLE EMISSIONS

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, a semiannual progress report summarizing the work and findings of the Committee on Motor Vehicle Emissions (with an accompanying report); to the Committee on Public Works.

REPORT ON URBAN AREA TRAFFIC OPERATIONS IMPROVEMENT PROGRAM

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on urban area traffic operations improvement program (with an accompanying report); to the Committee on Public Works.

REPORT OF REVISED ESTIMATE OF COST OF COMPLETING THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on revised estimate of cost of completing the national system of interstate and defense highways (with an accompanying report); to the Committee on Public Works.

REPORT OF TENNESSEE VALLEY AUTHORITY

A letter from the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn., transmitting, pursuant to law, a report of that Authority, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Public Works.

REPORT ON COMPLETION OF CERTAIN SEGMENTS OF THE INTERSTATE HIGHWAY SYSTEM IN THE DISTRICT OF COLUMBIA

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on the completion of certain segments of the Interstate Highway System in the District of Columbia (with an accompanying report); to the Committee on Public Works.

REPORT OF DISTRICT OF COLUMBIA CITY COUNCIL RELATING TO THE INTERSTATE FREEWAY SYSTEM

A letter from the Commissioner, the District of Columbia, Washington, D.C., transmitting, pursuant to law, a report of the District of Columbia City Council, relating to the interstate freeway system (with an accompanying report); to the Committee on Public Works.

STUDY OF THE PROBLEMS FACING VIETNAM ERA VETERANS

A letter from the Administrator of Veterans Affairs, transmitting, for the information of the Senate, a study of the problems facing Vietnam era veterans: Their readjustment to civilian life (with an accompanying report); to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Alabama; to the Committee on Foreign Relations:

"H.J.R. 2

"Memoralizing the President and Congress to do all in their power to secure the freedom of the prisoners of war in Vietnam

"Whereas the involvement of this country in Vietnam appears to be drawing to a close with the rapid withdrawal of our troops from Vietnam; and

"Whereas the release of our prisoners of war by North Vietnam has not been secured by even a tentative agreement; and

"Whereas the people of this State and their duly elected representatives in this Legislature are vitally concerned that the release of these men who have given so much for their country be secured, now therefore,

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That we do encourage the President and Congress to use all honorable means at their disposal to secure the release of our prisoners of war by North Vietnam.

"Be it further resolved That the Clerk of the House send copies of this resolution to the President and the members of Congress."

"In witness whereof, I have hereunto set my hand and have caused the Great Seal of the State of Alabama to be affixed by the Secretary of State, at the Capitol in the city of Montgomery on this 19th day of November, 1971.

"GEORGE C. WALLACE,
"Governor."

A resolution of the House of Representatives of the State of Ohio; to the Committee on Post Office and Civil Service:

"H.R. No. 135

"A resolution to memorialize the 92d Congress of the United States to request a postage stamp commemorating Joseph William Briggs, the father of free city mail delivery

"Whereas, The members of the House of Representatives of the 109th General Assembly of Ohio are cognizant that the United States Postal Service traditionally issues commemorative postage stamps honoring the distinguished men and great events of our proud history as a Nation; and

"Whereas, One such man was Joseph William Briggs, a postal employee himself in Cleveland, Ohio, who, on July 1, 1863, fathered the idea of free city mail delivery; and

"Whereas, This ingenious public servant zealously and courageously implemented the "Postman" institution throughout the Nation, creating additional revenues for the Postoffice Department and saving American taxpayers millions of dollars; and

"Whereas, It seems most fitting that the state of Ohio honor one of its favorite sons, Joseph William Briggs, the first postman as well as the designer of the first mail box and the first letter carrier's uniform; and

"Whereas, Recognition of this distinguished American falls upon the threshold of yet further reforms in the United States Postal Service, a most befitting coincidence among men who are similarly blessed with the foresight and courage to put their ideas into action as Joseph William Briggs did a century ago; therefore be it

"Resolved, That we, the members of the House of Representatives of the 109th General Assembly of Ohio, in adopting this Resolution do hereby memorialize the 92nd Congress of the United States to request through the United States Postal Service and the United States Citizens' Stamp Advisory Committee a postage stamp commemorating Joseph William Briggs, the father of free city mail delivery; and be it further

"Resolved, That the Legislative Clerk of the House of Representatives transmit duly authenticated copies of this Resolution to the United States Citizens' Stamp Advisory Committee; to Postmaster General Elmer Klassen; to Vice President Spiro T. Agnew,

President of the Senate; to the Honorable Allen J. Ellender, President pro tem of the Senate; to the Honorable Carl Albert, Speaker of the House of Representatives; and to each Senator and Representative from Ohio in the Congress of the United States.

"Adopted December 15, 1971."

A petition of sundry American citizens calling for the repeal of the United Nations Charter; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following report of a committee was submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 596. A bill to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof (Rept. No. 92-591).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BYRD of West Virginia (for Mr. SPARKMAN) (for himself and Mr. ALLEN):

S. 3033. A bill to provide that the lock and dam referred to as the "Columbia Lock and Dam" on the Chattahoochee River, Alabama, shall hereafter be known as the George William Andrews Lock and Dam. Referred to the Committee on Public Works.

By Mr. BEALL:

S. 3034. A bill for the relief of Miss Anamaria Moratoya Jimenez; and

S. 3035. A bill for the relief of Mrs. Luisa P. Zapanta. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 3036. A bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS (for Mr. WEICKER) (for himself, Mr. COOPER, Mr. JAVITS, Mr. RIBICOFF, and Mr. MATHIAS):

S. 3037. A bill to amend the Federal Aid Highway Act of 1956, as amended. Referred to the Committee on Public Works.

By Mr. BYRD of West Virginia (for Mr. CRANSTON):

S. 3038. A bill for the relief of Arthur E. Lane. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER:

S. 3036. A bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law. Referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I am introducing today a bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act. Whatever justification may have once existed for these statutes has disappeared with changed conditions over the years. These laws today harm rather than help our society and our economy. The most negative aspect of these laws is that they unnecessarily raise costs in construction, an industry which we all recognize as an historically high wage one.

The Davis-Bacon Act, commonly referred to as the prevailing wage law, was enacted on March 3, 1931, with the explicit purpose of protecting local wage standards of workers on Federal construction projects. Later, the scope of the act was expanded to include construction which was Federally assisted, even though the contract was not a Government one. The depression of the 1930's gave impetus to the law's passage: some States had already enacted similar measures for State and local projects. Proponents of the Davis-Bacon Act contended that construction contractors working on Federal projects were paying substandard wages. Contractors had little difficulty in doing this because of the large amount of unemployment then prevailing. Contractors using union labor often were underbid by contractors who used cheaper, unorganized labor imported from low-wage areas. Senator James J. Davis of Pennsylvania, Congressman Robert L. Bacon of New York, and other proponents of the legislation, wanted to prevent the Federal Government from being an instrument either of deflating or inflating wage rates for Federal construction. They also wanted to give local labor and local contractors a fair opportunity to participate in the Federal construction program. The Davis-Bacon Act was designed to achieve these objectives by providing that wages "prevailing" in the area of Federal construction must be paid by the bidding contractors irrespective of the sources of labor supply.

The actual determination of prevailing wage rates was, in the 1931 enactment, left in the hands of contractors and contracting agencies. The act was amended in 1935 so as to delegate to the Secretary of Labor the responsibility for determining prevailing wage rates in advance of inviting bids for Federal projects. By a 1964 amendment, fringe benefits were included in the definition of "prevailing wages."

For some years after its passage, little attention was paid to the Davis-Bacon Act, primarily because comparatively few people were effected directly. However, recent developments have tremendously enlarged the impact and importance of this law. One major development has been the great growth in Federal construction. The traditional areas of dams, reservoirs, and buildings to house Federal operations, have now burgeoned into such programs as missiles and space systems, defense-related installations and the interstate highway complex. A second major development has been the rapid increase in Federal assistance, through loans and grants, for construction awarded on a State and local basis. Federal funds now help construct hospitals, sewerage plants, parks, housing, airports and many other facilities.

Wage-rate determinations under the Davis-Bacon Act are issued to the requesting Federal agency responsible for the award of the contract. These rates are then shown as minimum wages in the bid specifications and the final contract documents. The number of wage determinations issued yearly by the Department of Labor has increased from 3,884 in fiscal year 1945 to about 25,900 in fiscal year 1970 and an estimated 26,200 in fiscal year 1971. In fiscal year 1970, about 58,000 contract awards totaling approximately $28 billion were covered under the Davis-Bacon wage determinations. For fiscal year 1971, an estimated 59,000 contract awards totaling roughly $30.1 billion were covered by wage determinations. The $30 billion in 1971 represented about one-third of all construction expenditures during that fiscal year, public and private.

Administration of the Davis-Bacon Act by the Labor Department has engendered much warranted criticism over the years. disapproval has been registered by not only building-employee groups, but by others as well. Studies by academicians point up consistent mismanagement by the Labor Department constituting an actual perversion of the statute. This same conclusion was reached by the General Accounting Office, the congressional watchdog over the executive branch, after an extremely comprehensive analysis of the Davis-Bacon administration which dates from 1962 until 1971.

The following are some of the criticisms made by the General Accounting Office in a report issued July 14, 1971. These conclusions were based on GAO findings from their studies over the past decade in 29 selected construction projects, including military family housing, low-rent public housing, federally insured housing, and a water storage dam.

First. Minimum rates prescribed by the Labor Department were significantly higher than prevailing wages in the areas and therefore substantially increased construction costs borne by the Federal Government, by 5 to 15 percent. This violates one major concept of the Davis-Bacon Act: that payment of prevailing wages should not be inflationary.

Some contractors do not bid on federally-financed construction projects, according to the report of the General Accounting Office, because the higher wage rates required on such projects lower the morale of workers in their labor forces paid lower wage rates on privately financed projects in the same locality. Morale is also hurt when workers return to lower wage rates after a Federal construction project is completed.

Second. The Labor Department must identify classifications of workers for which determinations should be made. In some cases, the Department has applied the wage rates of one classification to another classification without investigating the actual prevailing wage rates paid to each group.

Third. In defining the geographical area for which prevailing wages were to be determined, the Labor Department in some cases has gone beyond the county where the project was located and has applied rates from other, sometimes nonadjacent counties or from another State having different labor conditions.

Fourth. In many cases the Labor Department has not distinguished between different types of construction, such as commercial and residential, although significant variances exist between labor

rates applicable to these two types of construction. Often wage determinations have called for the higher rates applicable for commercial-type building construction and have disregarded the rates for residential-type construction.

Fifth. The Labor Department places undue emphasis on wage rates established in prior determinations and rates included in collective bargaining agreements, without verifying whether such rates are representative of the rates prevailing on similar construction in the area. These practices may be attributed to the fact that the Department has not compiled sufficient up-to-date and accurate information on prevailing basic wages and fringe benefits.

Sixth. The Labor Department's wage determinations do not generally prescribe separate rates for helpers and trainees. When local labor practices recognize these categories, separate rates may help lower construction costs and encourage contractors to hire semi-skilled and untrained persons on Government-financed projects.

Such a procedure would be particularly desirable in areas of hardcore unemployment.

Mr. President, I rise today not to add my voice to the criticism of the Federal Government's total disregard for the law's intent, although that aspect of the situation is indeed reprehensible. Nor am I recommending enactment of specific legislative guidelines to end the Government's indifferent posture towards that intent, although revision of the law is desperately needed if it is to remain on the statute books. Rather, I rise today to sponsor a bill calling for outright repeal of the act.

Mr. President, the Davis-Bacon Act was an emergency measure passed during a great depression. It carried the humanitarian purpose of preventing wages from falling precipitously at that time. The situation in today's construction industry is totally different. Average hourly earnings in contract construction equaled $5.22 in 1970, compared to $3.85 in the next highest-paying industry—transportation and public utilities—and $3.23 for private industry as a whole. Wage increases negotiated in construction contracts in recent years have been notoriously out of line with wage increases negotiated in contracts in other industries—about twice as high as those in manufacturing, for example. Construction unions have become so powerful relative to contract employers, and so effective in negotiating excessive wage increases, that construction became the first industry singled out by the administration for a wage stabilization program which went into effect in March of 1971.

The construction industry is highly organized, with more than three-quarters of its workers in unions. Only six industries in the country have such a high degree of unionization, according to the U.S. Bureau of Labor Statistics.

It seems obvious that such an industry does not need the assistance of an inflationary Davis-Bacon Act. The fact that the law's impact has been inflationary seems beyond dispute. In February, 1971, at the time he temporarily suspended the law, President Nixon said the following:

> Under the Davis-Bacon Act wage rates on Federal projects have been artificially set by this law rather than by customary market forces. Frequently, they have been set to match the highest wages paid on private projects. This means that many of the most inflationary local wage settlements in the construction industry have automatically been sanctioned and spread through Government contracts.

I strongly supported President Nixon's suspension of the Davis-Bacon Act. Unfortunately, the suspension lasted only a little more than a month. The angry reaction of union leaders to the suspension was proof that it was indeed operating to check the upward escalation of construction wages. In a syndicated column on April 10, 1971, Labor reporter Victor Riesel made the following comment:

> "Why the sudden anger? Well, in one New England city some operating engineers' wages had been sliced from about $6.50 an hour to $3.50. As new bids were coming in after the Davis-Bacon suspension, contractors were cutting their wage costs. At Wright-Patterson Air Force Base in Ohio, the bid on some family housing units came in for some $400,000 less. At some projected family housing units in Fort Huachuca, Ariz., the bid came in for $50,000 less. At a proposed small El Paso, Tex., hospital, the bid returned $51,000 less than the previous bid. These were but symptoms—but there were hundreds of them.

Mr. President, repeal of the Davis-Bacon Act not only would help to restore the free market mechanism for construction wages on Federally supported projects and end the arbitrary imposition of the highest union rates for such projects, but it also would help to increase employment in construction work. The irony is that, at the same time that it enjoys the highest wages of all industries, construction suffers from the highest unemployment rate. During 1970, unemployment in construction averaged 9.7 percent—higher than the 7.5 percent unemployment in agriculture, the industry with the next highest unemployment rate, and about twice as high as the 4.9 percent unemployment level for industry as a whole. Currently unemployment in the construction industry continues to linger in the 9- to 10-percent range.

Many persons see the Davis-Bacon Act effectively curtailing entry of unemployed workers, particularly the unskilled and semi-skilled, into government construction projects because of the high wages which would have to be paid to them. No doubt the closed system that is promoted by the Davis-Bacon Act has contributed to the inability of blacks, Spanish-speaking people, and other minorities from gaining entrance into the construction industry.

For the above reasons, many groups applauded President Nixon's recent suspension of the Davis-Bacon Act. They recommended the dismantling of the Labor Department's staff for administering this law and advocated its permanent suspension. In an article in the April 1971 Labor Law Journal, Prof. Jerry E. Pohlman, assistant professor at the State University of New York at Buffalo, concludes that:

> The provisions of the Davis-Bacon Act do prohibit the adoption of more job-creating programs by the government . . . /and/ the Davis-Bacon Act reduces the potential of job-creating programs in the war against poverty.

In a recently concluded study authorized by the American Enterprise Institute for Public Policy Research, Dr. John P. Gould, an economist at the University of Chicago, said that:

> High prevailing wage determinations appear to discourage nonunion contractors from bidding on federal construction . . . This means that nonunion contractors are less competitive and that the government has to pay a premium price for construction work, and that the bargaining power of unionized construction workers is strengthened substantially.

Moreover, stated Dr. Gould:

> Excluding nonunion contractors from a substantial part of the construction market also has undesirable economic consequences for minority groups and younger workers who are more likely to find employment in the nonunion sector of the construction industry.

Because it serves as an inflation generating mechanism in an era when inflation appears to be a constant sore on the American economy, and because it is curtailing employment in an age of relatively high employment, I urge the repeal of the Davis-Bacon Act. Furthermore, the Fair Labor Standards Act, enacted in 1938, 7 years after the passage of Davis-Bacon, provides a floor under construction wages, the same floor that serves for all other industries. Reason dictates that construction should not have special status with a separate, statutory wage floor much higher than the rest of the American economy.

Mr. President, no doubt some will consider this bill to be patently "anti-labor." This is simply not the case. The Davis-Bacon Act has caused high unemployment in the construction industry. It has restricted low-income people from that industry, and it has driven the cost of low-cost public housing and other government construction upward at a tremendous rate. In essence, the Davis-Bacon Act has deprived many low and middle-income Americans the opportunities enjoyed by other Americans, while, at the same time, has kept the free market mechanism from working in a natural and free manner. There are those who are constantly accusing others of not helping the little man. The bill I am introducing today would repeal a 40-year-old law that has, for the past 30 years, kept the little man from being able to compete for jobs in the construction industry.

The bill I am introducing today would also repeal the Contract Work Hours Standards Act. This act requires the payment of premium pay to laborers and mechanics on Federal and Federally-financed public works, at the rate of time and one-half for hours in excess of 8 in any 1 calendar day or 40 hours in any 1 workweek. There is also a penalty of $10 a day for each worker employed in violation of these requirements. The Contract Work Hours Standard Act was passed in 1962 to replace several 8-hour laws applicable to laborers and mechanics on public works.

This law is a bad statute on several counts. For one thing it adds to the complexity and confusion of Federal labor

law. It covers much the same ground as the Fair Labor Standards Act. The latter subjects the construction industry to its overtime provisions for work over 40 hours per week. Hence, contractors find that the same conduct is governed by two different legislative standards and enforcement procedures.

Furthermore, the statutory requirement of overtime pay for work in excess of 8 hours in any 1 day, found in the Contract Work Hours Standards Act, but not in the Fair Labor Standards Act, is a poor idea. It discourages the growing trend in American industry for experimentation in workweek scheduling. Collective bargaining agreements aimed to test various scheduling combinations, such as the 4-day workweek of 10 hours each, or of 9 hours each, is discouraged when the employer must pay a penalty for work over 8 hours in 1 day. The law also discourages the scheduling of extra hours of work on any 1 day to make up time lost on other days due to bad weather, delays in receiving necessary supplies and other legitimate reasons.

Mr. President, it is indeed ironic that the construction industry should be the recipient of extra Federal statutory protection in the form of Davis-Bacon and Work Hours Laws. Other employees have only the protection of the Fair Labor Standards Act. The Davis-Bacon Act was a product of a depression and the 8-hour law the product of an era when the Federal commerce power was interpreted on the basis that Federal construction was one of the few activities the Congress could regulate. Both of these laws are anachronisms today.

Protective labor legislation is intended primarily for the unorganized worker, the marginal employee, the personnel of depressed industries and those Americans residing in the country's poorer regions. This type of legislation may serve a useful purpose. But protective legislation should not be extended to such growth industries as the construction industry. It is time to restore the processes of the free market and collective bargaining to the construction industry.

Mr. President, I ask unanimous consent that the text of my bill be inserted in the RECORD at this time. In addition, I ask unanimous consent that the text of an editorial which appeared in the January 17 edition of the Wall Street Journal be inserted in the RECORD. This editorial further amplifies upon many of the negative aspects of the Davis-Bacon Act that I have mentioned in my remarks. I urge my colleagues to give their closest consideration to the current practices and situations which have brought me to the conclusion that these two laws should be repealed.

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

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following provisions of law are repealed:

(1) The Davis-Bacon Act (as amended (40 U.S.C. 276a-276a-5).

(2) The Contract Work Hours Standards Act (40 U.S.C., ch. 5).

(3) All legislation which is subject to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267).

(4) Section 1499 of title 28, United States Code.

Sec. 2. This Act shall take effect sixty days after its enactment, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the enactment of this Act.

CROSS PURPOSES IN CONSTRUCTION

While the Pay Board is struggling to get wages under control, a number of federal laws are working effectively to push wages up. It isn't exactly novel for the government to be working at cross purposes but this instance is especially astonishing.

The federal wage-boosting program was instituted in 1931, with passage of the Davis-Bacon Act. In a troubled economy builders sought federal construction contracts even more avidly than usual, and here is how one of the sponsors of the legislation described the results:

"A practice has been growing up in carrying out the building program where certain itinerant, irresponsible contractors, with itinerant, cheap, bootleg labor have been going around throughout the country 'picking' off a contract here and a contract there, and local labor and local contractors have been standing on the sidelines. . . . This bill . . . is simply to give local labor and the local contractor a fair opportunity to participate in this building program."

At least some of those allegedly irresponsible contractors were on the move because they were as desperate for business as the local contractors. And some of that "cheap, bootleg" labor was merely recognizing that, in 1931, almost any job was better than no job at all. But Congress nonetheless sought to stabilize local wage rates, at least those paid on federal construction contracts.

The theory was simple. The law merely required contractors to pay "prevailing" wages on federal projects, and the Labor Department was to determine what those prevailing wages were. In practice the program has worked perversely, to put it mildly.

John P. Gould, asociate professor of business economics at the University of Chicago's Graduate School of Business, details some of the results in a new study published by the American Enterprise Institute. As he notes, the results have become more pervasive and damaging as the prevailing wage scheme has been extended to many other types of projects, including those aided by the federal government.

One problem has been that the Labor Department's wage-determination staff has not been large enough to cope with a massive and growing work load. As a result the department has tried to simplify its task, often leaning heavily on arguments and information provided by construction unions, hardly disinterested parties.

Professor Gould recounts the trouble the Navy had with a housing project for the Marine Corps School at Quantico, Va. The Navy told the Labor Department that the latest prevailing-wage figures for the area were far in excess of the wages that actually did prevail there. The department lowered its figures but labor unions protested, so it went to the original, out-of-line wage rates.

With the strong influence of the unions it's hardly surprising that the Labor Department's determinations are union rates, no matter what portion of the workers in the area are unionized. If union rates are relatively low or nonexistent in an area, the Labor Department may settle for the high union rates in an area many miles away.

The Chicago professor's analysis cites a General Accounting Office study: "Wage determinations for power equipment operators on federally financed projects throughout Maine were found to be higher than those prevailing in Maine. The Davis-Bacon rates corresponded to union-negotiated rates in Boston, Mass."

It's obvious that the prevailing-wage program helps to extend and solidify union pay scales. When Davis-Bacon rates are out of line and a local labor market is tight, the prevailing-pay setup can put strong upward pressure on all local wages.

"By creating artificial wage differentials," Professor Gould writes, "the Davis-Bacon Act tends to cause greater frictional unemployment in the construction trades. Construction workers appear to be willing to forgo current employment in order to wait for jobs paying higher union wage rates."

The prevailing-wage machinery helped to cause the sharp rise in construction wage rates in recent years, a rise that was accompanied by heavy unemployment. Unable to get the unions to moderate their demands, President Nixon early last year suspended the Davis-Bacon Act; the unions then agreed to a pay stabilization committee and Mr. Nixon reinstated the the act.

Public members of the committee boast that the group has slowed the industry's wage rise to "only 11% a year, and the Pay Board struggles to slow wage boosts elsewhere. Meanwhile, the Davis-Bacon engine of pay inflation roars right ahead.

By Mr. MATHIAS (for Mr. WEICKER) (for himself, Mr. COOPER, Mr. JAVITS, Mr. RIBICOFF, and Mr. MATHIAS):

S. 3037. A bill to amend the Federal Aid Highway Act of 1956, as amended. Referred to the Committee on Public Works.

FEDERAL AID HIGHWAY ACT OF 1972

Mr. MATHIAS. Mr. President, I am sending to the desk a bill to restore balance to America's transportation policy. I am introducing this bill for the junior Senator of Connecticut (Mr. WEICKER), the senior Senator from Connecticut (Mr. RIBICOFF), the senior Senator from Kentucky (Mr. COOPER), the Senator from New York (Mr. JAVITS), and myself. The junior Senator from Connecticut regrettably cannot be present today, but I am happy to be able to submit for the RECORD a copy of the remarks he would make if he were here. I wish to congratulate the Senator and his able staff for addressing themselves so intelligently to this important issue and for their hard work in producing an excellent piece of legislation.

The bill which I am sending to the floor is entitled the "Federal Aid Highway Act of 1972." It would amend the legislation governing the highway trust fund to permit approximately one-half of the trust fund to be used for various forms of mass transit, including commuter railroads, buses, subways, and regional mass transit systems such as that proposed for Baltimore.

America needs a balanced transportation policy. In the past, at different levels of technology, we have maintained turnpikes, canals, railroads, stagecoaches, riverways, and airways. Our goal is to move people and goods quickly, inexpensively, and safely with little damage to our environment. To maintain a balance in our transportation system, however, requires that we occasionally adjust the weights on the scales, that we change the emphasis we give to different modes of transportation.

During the past generation, America

has built a network of highways that is truly a wonder of the world. But today the question is whether we will strive so hard to become king of the road that we become its slave instead. Today, our most urgent transportation needs are not for more highways, but rather for better systems of local and regional mass transit. Today we know that the highway alone cannot meet all our transportation needs. In the future we must find additional means of getting commuters from their homes to their jobs, of carrying shoppers to their stores, of carrying people from one part of a metropolitan area to another, as well as superior roads and freeways.

We can achieve this new goal by utilizing the great engine of growth that has built our current network of highways. That engine is the highway trust fund, which provides a method for secure financing of long-term transportation projects. If we can devote some of the money in this trust fund to improving mass transit within our metropolitan areas, we will take the commuters and shoppers off our congested interstate highways and return these roads to interstate travelers.

The bill which I am sending to the floor will allow approximately one-half of the funds in the trust fund to be used for mass transit systems in accord with the Urban Mass Transportation Act of 1964. It would give State highway officials new flexibility in building transportation systems that can best serve the needs of the people of their States. The bill would improve transportation planning in America by requiring long-range coordinated planning for all transportation modes within and among States. It would reduce annual authorization from $4 billion to $3 billion, but it would continue the program for an extra year. The bill continues authorizations for the primary and secondary highway systems at their current level but increases the urban-aid programs from $100 million to $1 billion in fiscal year 1974 and $1.2 billion in fiscal year 1975. Overall the bill would provide up to $2.25 billion in fiscal year 1974 and up to $2.45 billion in fiscal year 1975 for all forms of urban transportation. While it would not require that State officials spend these funds in the highway trust fund for mass transit systems, it would for the first time provide these officials with this option.

I ask unanimous consent that the statement of the Senator from Connecticut (Mr. WEICKER) and the bill be printed in the RECORD.

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

STATEMENTS BY SENATOR WEICKER

Mr. President. In 1956 the Highway Trust Fund was created to alleviate the most serious transportation problem we then faced. Whole sections of the country were virtually isolated and the aim of this important law was to tie all of our cities and towns together, to bring speed, mobility and commerce to everyone individual. After 15 years, the Interstate System is over 75% completed and the Federal-Aid Highway System must be counted a success.

But today our transportation problems are different. Today we know that in many parts of the country highways alone are not enough. We know that people want to move, they want mass transit to supplement highways in congested urban areas. They want to take commuters off the Interstate System and return the highways to interstate travelers. Today, buses, subways and new, innovative forms of transportation are essential.

The Federal-Aid Highway Act of 1970—brought about in large measure by the dedication and ability of the Chairman of the Senate Public Works Committee—took the first big step toward providing for these new needs. Highway safety, the highway environment and highway uses for mass transit are now firmly established as integral parts of the Federal-Aid system.

With a recognition of our new, broader transportation needs, I propose today that we take the next logical step. For the bus lanes now provided for in the Trust Fund to be fully effective, we must allow communities to purchase the most modern, efficient buses. We must allow other communities to more fully utilize the thousands of miles of railroad tracks already built in urban areas for mass transit. We must allow the purchase and construction of the latest mass transit facilities in those areas where they provide the best opportunities for freeing our highways of congestion.

Specifically, I propose that we definitely complete the Interstate System. However, in accordance with the recommendations of the American Association of State Highway Officials, this vital program should be extended in time and reduced in authorized cost from $4 billion to $3 billion per year.

It is clear that as we approach the end of Interstate construction, the final links are being slowed by planning, environmental and legal problems which clearly call for partial slow-downs in annual authorizations.

Further, I propose that the annual saving of $1 billion in fiscal years 1974 and 1975 be shifted to the Urban Transportation Program to be used for renovating, building and equipping mass transit systems in urban areas.

Finally, I propose that all highway programs financed through the Trust Fund—excepting, of course, the Interstate System—be made available for solving all kinds of mass transit problems in a manner best suited to the circumstances facing each individual State. This would provide the new flexibility so desperately needed by State governors and transportation officials.

Mr. President, let me emphasize here that this bill would in no way prevent a state from using its entire allocation from the Trust Fund for highways, but it would allow the states the freedom to spend more on mass transit facilities and vehicles where necessary. Further, as I have stated many times in the past, it is likely that buses, and therefore highways in one form or another, will be selected by most cities as they seek to provide individualized mass transit systems to serve their people. Flexibility is the real key to this bill. The people of this country clearly recognize the need for greater flexibility and better balance in transportation planning and funding, and I look forward to hearings on my proposals at the earliest possible date.

Mr. President, I ask unanimous consent that the complete text of my bill be included in the Record at this point.

S. 3037

A bill to amend The Federal Aid Highway Act of 1956, as amended

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Aid Highway Act of 1972."

SEC. 2. Section 142 of Title 23 of the United States Code is amended to read as follows:

"URBAN PUBLIC TRANSPORTATION

"SEC. 142(a). To encourage the development, improvement, and use of public transportation systems operating motor vehicles on interstate highways for the transportation of passengers within urbanized areas so as to increase the traffic capacity of the Federal aid system, sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, and fringe and transportation corridor parking facilities to serve bus and other public transportation passengers.

"(b) To further encourage the development, improvement, and use of public transportation systems within urbanized areas, sums appropriated in accordance with paragraphs (1), (2), (3), and (6) of subsection (b) of section 104 of this title shall be available for carrying out the purposes of the Urban Mass Transportation Act of 1964 as amended.

"(c) The establishment of routes and schedules of such public transportation systems shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

"(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the state that public transportation systems will have adequate capability to fully utilize the proposed project."

SEC. 3. Section 134(a) of Title 23 of the United States Code is amended to read as follows:

"SEC. 134(a). It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the states and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the states, as authorized in this title, in the development of long-range comprehensive public transportation plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and with the plans of adjacent states and which are formulated with due consideration to their probable effect on the future development of urban areas. The Secretary shall not approve under this title any program for projects in any urban area unless he finds that such projects are based on a continuing comprehensive public transportation planning process carried on cooperatively by states and local communities in conformance with the objectives stated in this section. No project under this title may be approved unless the responsible public officials of the urban area in which the project is located have been consulted and their views considered with respect to the location, design and type of the project.

SEC. 4. Subsection (b) of Section 108 of the Federal Aid Highway Act of 1956, as amended, is amended by striking out: "The additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976." and inserting in lieu thereof the following: "The additional sum of $3,00,000,000 for the fiscal year ending June 30, 1974,

the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976 and the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1977.

SEC. 5. For the purpose of carrying out the provisions of Title 23, United States Code, tht following sums are hereby authorized:

(a) For the Federal-aid primary system and the Federal-aid secondary system and for their extension within urban areas, out of the Highway Trust Fund, $1,100,000,000 for the fiscal year ending June 30, 1974, and $1,100,000,000 for the fiscal year ending June 30, 1975. The sums authorized in this paragraph for each fiscal year shall be available for expenditure as follows:

(1) 45 per centum for projects on the Federal-aid primary highway system;

(2) 30 per centum for projects on the Federal-aid secondary system; and

(3) 25 per centum for projects on extensions of the Federal-aid primary and Federal-aid secondary highway systems in urban areas.

(b) For the Federal-aid primary system and the Federal-aid secondary system, exclusive of their extensions in urban areas, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending June 30, 1974, and $125,000,000 for the fiscal year ending June 30, 1975, such sums to be in addition to the sums authorized in Subsection (a) of this Section. The sums authorized in this paragraph for each fiscal year shall be available for expenditure as follows:

(1) 60 per centum for projects on the Federal-aid primary highway system; and

(2) 40 per centum for projects on the Federal-aid secondary system.

(c) For the Federal-aid urban system, out of the Highway Trust Fund, $1,000,000,000 for the fiscal year ending June 30, 1974, and $1,200,000,000 for the fiscal year ending June 30, 1975.

Mr. COOPER. Mr. President, I wish to speak on the highway bill introduced at the request of the Senator from Connecticut (Mr. WEICKER). Although I strongly urge the revision of one provision of the bill, I support its intent to allow greater flexibility in the use of Federal-aid highway funds for urban transportation.

This bill would permit Federal-aid highway funds to be used in the planning, design, and construction of railways and other modes of urban transportation in addition to highways, and for the purchase of rolling stock—whether buses, railway cars, or other conveyances.

It would strengthen the planning requirements of section 134(a) of title 23, and would increase appropriations for urban transportation needs while decreasing annual appropriations for the Interstate System and extend the life of the Interstate program.

What this bill intends to accomplish, and what I believe all of us who have a responsibility for transportation policy seek to accomplish, is a balanced transportation system. We hear that phrase often, but I think the concept an important one. A balanced system makes the best use of all available means of transportation, and does not favor the interests of one segment of the population over another.

Because I favor such a balance, I do wish to emphasize one point about this bill in its present form which I believe should be changed. As introduced, the bill would permit funds designated for rural primary and secondary roads to be used for mass transportation—primarily urban needs. This provision should be eliminated. Rural areas should not be placed in the position of taking what is left over after the needs of other areas are satisfied. Funds appropriated by Congress for rural transportation systems should be used for rural purposes.

I do, however, favor allowing States and cities the flexibility prescribed by this bill in their use of Federal-aid funds appropriated for the urban highway program. Primary and secondary funds, excluding those for urban extensions, should not be affected by the provisions of the bill.

With the exception of this one area of disagreement, I believe the bill provides for a program consistent with the national policy—as stated in previous highway legislation—of developing a balanced transportation system.

In 1962, Congress enacted what is now section 134(a) of title 23, which declared it to be "in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively." The section required that highway planning in urbanized areas be coordinated with other forms of transportation.

In 1968, the urban area traffic operations improvement program, referred to as TOPICS, was enacted to reduce traffic congestion and facilitate the flow of traffic in urban areas. This program provided for traffic control devices, loading and unloading ramps, grade separation of intersections and other projects to promote a smoother flow of traffic.

The Highway Act of 1970 contained several provisions directly related to achieving balanced transportation systems. Section 142, which Senator WEICKER's bill would amend, was added to title 23 and authorized use of Federal-aid highway funds to construct fringe parking facilities for bus and other public mass transportation passengers, preferential bus lanes, and bus loading areas and shelters.

While this bill if enacted would, for the first time, specifically allow the use of highway funds for transportation modes other than highways, I believe that would be an extension of past policy rather than a departure from it. As the history of highway legislation shows, we have been moving toward a broader definition of programs to benefit highway travel. In some urban areas, it appears that what would help most to relieve this congestion is not more or wider roads, but alternatives to highway travel. At the present time, Federal funds available for highway projects so far exceed those available for other forms of transportation that a community's decision on the solution of its transportation problem may be too heavily weighted in favor of highway projects. This bill would encourage urban areas to arrive at the best combination of transportation modes to satisfy their needs.

I would like to point out here that the use of highway funds for public transportation may in most cases mean using those funds for road-related transit systems. Almost 75 percent of all mass transit passengers are bus passengers; if we exclude New York City, the ratio of bus to rail passengers on the Nation's mass transit systems is 9 to 1. Thus, when we talk of funds for mass transportation, we are certainly including the improvement of bus systems and the road networks they use.

Senator WEICKER's bill modifies section 134(a) of title 23 to require interstate and intermodal planning for the solution of urban transportation problems. I support this modification.

I would like to call attention also to the following section, section 134(b) of title 23, which I offered as an amendment to the Highway Act of 1970, and which was approved. This section authorizes the Secretary of Transportation to designate critical transportation regions and provide assistance to planning bodies established in those regions to develop comprehensive, integrated transportation plans. The section specifically calls for planning which embraces various modes of transportation and for consultation with the Governors—not the highway departments—of the States in the regions involved. Section 134(b) gives the Secretary authority to begin to solve problems of coordination between transportation modes in regions comprising several local and State jurisdictions. In enacting 1972 highway legislation, I would like Congress to make known to the Secretary its intent that he exercise, to the fullest, the authority vested in him by this section and that he actively implement planning programs to assist States and communities in developing balanced transportation systems. I would like to see increased funds made available to the Secretary to carry out the programs in this section, which, I believe, will be complemented and strengthened by the provisions of Senator WEICKER's bill.

I would now like to comment very briefly on the proposed shift of Federal highway funds from the Interstate to the urban system. The bill proposes and intends no cutback or curtailment of the Interstate program; it simply recognizes the urgency of urban needs in relation to the completion date of the Interstate system. Representatives of the chief officials of State Highway Departments have lent support to such a reordering of priorities, with increased emphasis on urban needs.

Mr. President, I am convinced that solutions to urban transportation problems are possible only through comprehensive planning, with greater flexibility permitted the planners. A program which limits its focus to highways may not serve the goal of a balanced system. I believe the bill offered by Senator WEICKER, with the reservation I have pointed out, provides a realistic approach to the urban transportation problem, and to the best future use of the highway trust fund.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 582

At the request of Mr. HOLLINGS, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 582, a bill to establish a national policy to develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

S. 2675

At the request of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2675, a bill to amend certain provisions of the Federal Coal Mine Health and Safety Act of 1969 relating to payment of black lung benefits.

SENATE JOINT RESOLUTION 169

At the request of Mr. HOLLINGS, the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. MCGEE), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 169, to pay tribute to law-enforcement officers of this country on Law Day, May 1, 1972.

SENATE JOINT RESOLUTION 181

Mr. BEALL. Mr. President, on December 6 I introduced Senate Joint Resolution 181 to establish a Joint House-Senate Committee on Aging.

In addition to its other responsibilities, this committee would be given the specific assignment of following up on the White House Conference on Aging. I am pleased to add Senator Baker's name to those who have agreed to cosponsor this measure and I ask unanimous consent that at the next printing of the bill his name be added.

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

(Ordered to be printed and to lie on the table.)

AMENDMENT NO. 797

Mr. SCHWEIKER (for Mr. TAFT) (for himself and Mr. JAVITS) submitted an amendment intended to be proposed to the bill (S. 2515) to further promote equal employment opportunities for American workers.

Mr. TAFT. Mr. President, many businessmen have expressed the concern that the Equal Employment Opportunity Commission will be investigator, prosecutor, and judge. I share the concern that this agency should not have all of these powers combined under a centralized authority. For that reason I am today introducing for myself, the Senator from Pennsylvania, Mr. SCHWEIKER, and the Senator from New York, Mr. JAVITS, an amendment to separate the Office of General Counsel so that it can operate autonomously from the remainder of the Commission.

Under this amendment, the General Counsel of the Commission shall be autonomous and shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years. The General Counsel shall have full responsibility for the issuance of all complaints, the prosecution of such complaints before the Commission and the conduct of litigation.

I have deliberately separated the investigatory and prosecutory functions under this amendment, since I believe that the General Counsel will be able to act far more objectively and dispassionately in reviewing these cases if there is a separation of personnel so that those who have investigated a case will not be those who will make a prosecutory decision.

In order to facilitate the working relationship between the General Counsel's staff and the EEOC staff in the field, this amendment provides that the Chairman shall concur in the appointment of the regional attorneys and the General Counsel shall concur in the appointment of regional directors.

I believe that this provision will go a long way toward avoiding the difficulties which otherwise might be present in having a divided staff at the field level. In all other respects, however, the General Counsel's staff shall be completely autonomous from that of the Commission.

So that there will be no misunderstanding of the intent of this amendment, the General Counsel will be able to decide whether or not he wishes to bring an action. The only area in which the General Counsel shall not have discretion shall be in those instances where the Commission recommends that the General Counsel seek a temporary injunction in court. In such cases the General Counsel shall act. I believe that the discretion of the General Counsel is not required in these instances because these cases will be brought in the U.S. Circuit Courts of Appeals and consequently these cases do not involve situations where the Commission is able to act as investigator, prosecutor, and judge.

In all other situations, the General Counsel will be able to review facts independently and decide for himself whether or not he wishes to launch a prosecution and the manner in which that prosecution shall be handled.

Under this amendment, after the issuance of a complaint, proceedings may be ended by agreement between the General Counsel and the respondent upon the approval of the Commission.

If this amendment is adopted, I will be able to support the bill as written. As I stated in my supplemental views to the committee report the adoption of this amendment "will insure procedural fairness in the administrative operation of the Commission and eliminate some serious objections to broaden Commission authority." If this amendment is not adopted, I may not be able to support the bill as written.

I have discussed the amendment with the chairman of the committee and my staff has worked closely with the staff of the chairman in preparing the amendment. I have written to the chairman about the amendment and have received his reply. I ask unanimous consent that the letters be printed in the RECORD. I also ask that the text of the amendment be printed in the RECORD.

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

JANUARY 17, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you will recall, when we were marking up S. 2515, I indicated that I would be offering an amendment to make the office of General Counsel independent from the remainder of the EEOC. You requested that I reserve this amendment in order that our respective staffs could have an opportunity to get together and work out agreeable language.

I am enclosing a copy of the amendment which I intend to offer. I understand that it has been reviewed at length by members of your staff. I would hope that this amendment will be agreeable to you and that you will be able to accept it on the floor.

With kind regards,

Sincerely,

ROBERT TAFT, Jr.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., January 18, 1972.

Hon. ROBERT TAFT, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TAFT: This will acknowledge your letter of January 17th in which you express your intention to introduce an amendment to S. 2515 which would create a statutory General Counsel within the organizational framework of the Equal Employment Opportunity Commission.

I know how concerned you have been that the enforcement procedures reported by the Committee in S. 2515 have the maximum requirement of fairness and due process for all parties. The approach you suggest has been a part of the National Labor Relations Board and has worked successfully for many years. A similar provision was offered to S. 2453 last year and accepted, and I will recommend that the Senate agree to your amendment at the appropriate time in the debates. It certainly is agreeable to me.

With kind personal regards,

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

AMENDMENTS NO. 797

On page 38, line 11, immediately after "shall", insert the following: "so notify the General Counsel who may".

On page 40, line 23, immediately after "Commission" insert the following: "or, after issuance of a complaint, the General Counsel upon approval of the Commission".

On page 43, line 15, immediately after "The" insert the following: "General Counsel, upon the recommendation of the"; immediately after "Commission" insert a comma; and strike out the word "may" and insert in lieu thereof "shall".

On page 43, line 18, strike out "it's" and insert in lieu thereof "the Commission's".

On page 43, line 20, strike out "its" and insert in lieu thereof "the Commission's".

On page 43, line 22, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 45, line 19, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 46, line 3, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 46, line 4, strike out "its" and insert in lieu thereof "the Commission's".

On page 46, line 21, immediately after "the" insert the following: "the General

Counsel, upon the recommendation of the"; and immediately after "Commission" insert a comma.

On page 46, line 22, strike out "it" and insert in lieu thereof "he".

On page 46, line 23, strike out "its" and insert in lieu thereof "the Commission's".

On page 47, line 23, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 49, line 6, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 50, line 1, immediately after "and the" insert "General Counsel, upon the recommendation of the"; and immediately after "Commission" insert a comma.

On page 50, line 1, strike out "may" and insert in lieu thereof "shall".

On page 56, lines 16 and 17, strike out "Commission" and insert in lieu thereof "General Counsel".

On page 58, line 18, immediately after "and", insert the following: ", except as provided in subsection (b),".

On page 58, line 22, immediately after "employees", insert the following: ", except that regional directors of the Commission shall be appointed by the Chairman with the concurrence of the General Counsel.".

On page 59, immediately after line 22, insert a new subsection (e) as follows:

"(e) (1) Section 705 of the Act is amended by inserting the following new subsection (b):

"'(b) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the issuance of compaints, the prosecution of such complaints before the Commission, and the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law. The General Counsel shall appoint regional attorneys with the concurrence of the Chairman, and shall appoint such other employees in the Office of the General Counsel as may be necessary to assist in carrying out the General Counsel's responsibilities and functions under this title. In accordance with the provisions of section 554 (d) of title 5, United States Code, no employee or agent of the Commission may engage in the performance of prosecutorial functions for the Commission in a case or any factually related case, and also participate or advise in the decision, recommended decision, or Commission review of a decision, except as a witness in public proceedings. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.'

"(2) Subsections (b) through (j) of section 705 of such Act are redesignated as subsections (c) through (k), respectively."

On page 59, line 23, strike out "(e)" and insert in lieu thereof "(f)".

On page 60, line 3, strike out "(f)" and insert in lieu thereof "(g)".

On page 60, line 7, strike out "(g)" and insert in lieu thereof "(h)".

On page 61, line 10, strike out "(h)" and insert in lieu thereof "(i)".

On page 61, following line 23, add the following new subsection 9(d), as follows:

"(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

ANNOUNCEMENT OF FURTHER HEARINGS ON BLACK LUNG BENEFIT LEGISLATION

Mr. RANDOLPH. Mr. President, this is to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will continue its hearings on legislation to amend title IV of the Federal Coal Mine Health and Safety Act of 1969. Two days of hearings are scheduled, both to begin at 9:30 a.m. in room 4200, New Senate Office Building. The dates are Thursday, January 27, 1972, and Friday, January 28, 1972.

NOTICE OF HEARINGS ON A TREATY

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations will initiate hearings on the Treaty on the Prohibition of Nuclear Weapons on the Seabed commencing on January 27, 1972. The hearings will be held in room 4221 in the New Senate Office Building beginning at 9:30 a.m. each day of the hearings. At the outset of the hearings the committee will hear representatives of the administration; the committee will then hear public testimony. Any United States citizen wishing to testify should communicate with Arthur M. Kuhl, chief clerk, of the committee staff. Senator PELL will preside at the hearings.

ADDITIONAL STATEMENTS

ORDER OF THE PRESIDENT PRO TEMPORE IMPLEMENTING PROVISIONS OF FEDERAL PAY COMPARABILITY ACT OF 1970

Mr. ELLENDER. Mr. President, pursuant to the Federal Pay Comparability Act of 1970, as reinstated by section 3 of Public Law 92–210, approved December 22, 1971, the President of the United States, by Executive Order 11637 of December 22, 1971, authorized a 5.5-percent salary increase for the Federal pay systems under his jurisdiction.

In discharging my responsibility as President pro tempore of the Senate, and under authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, I issued an order implementing the action of the President for the U.S. Senate. I ask unanimous consent that this order be printed in the RECORD.

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

[U.S. Senate, Office of the President pro tempore]

ORDER

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970 and section 3 of the Economic Stabilization Act Amendments of 1971, it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this order, the annual rate of compensation of each employee whose compensation is disbursed by the secretary of the Senate is adjusted to the lowest multiple of $259 which is not lower than the rate such employee was receiving immediately prior to January 1, 1972.

(b) For purposes of this order—

(1) "employee" includes an officer other than a Senator; and

(2) "annual rate of compensation" shall not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms, the Legislative Counsel, the Comptroller of the Senate, the secretary for the majority (other than the present incumbent), the secretary for the minority, and the four Senior Counsel in the Office of the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid, by reason of the promulgation of this order, an annual rate of compensation in excess of the annual rate of basic pay, which is now or may hereafter be in effect, for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The maximum annual rates of compensation of the Secretary for the Majority (as long as that position is occupied by the present incumbent), the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, and the Chief Reporter of Debates are increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not have his compensation fixed, by reason of the promulgation of this Order, at an annual rate in excess of the annual rate of basic pay, which is now or may hereafter be in effect, for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) The maximum annual rates of compensation of the Administrative Assistant in the Office of the Majority Leader, the Administrative Assistant in the Office of the Majority Whip, the Administrative Assistant in the Office of the Minority Leader, the Administrative Assistant in the Office of the Minority Whip, the seven Reporters of Debates in the Office of the Secretary, the Assistant Secretary for the Majority, and the Assistant Secretary for the Minority are increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. Notwithstanding the provisions of this subsection, each individual occupying any such position shall not have his compensation fixed, by reason of the promulgation of this Order, at an anual rate in excess of $35,742, until the annual rate of basic pay for positions at such level V is increased to $38,000 or more, except that any individual occupying the position of Administrative Assistant in the Office of the Majority Whip or Minority Whip shall not have his compensation fixed, by reason of the promulgation of this Order at an annual rate in excess of $34,447 until such rate for level V is increased to $38,000 or more.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplian is adjusted to that multiple of $259 which is nearest to the annual rate of compensation he was receiving immediately prior to January 1, 1972. The maximum annual rate of compensation for the position of secretary to the Chaplain is the maximum rate in effect immediately prior to January 1, 1972, adjusted to the nearest multiple of $259.

OFFICES OF THE SENATE

SEC. 4. (a) Any specific rate of compensation established by law, as such rate has been increased by or pursuant to law, for any position under the jurisdiction of the Sergeant at Arms (including positions es-

tablished by the Supplemental Appropriations Act, 1972) shall be considered as the maximum annual rate of compensation for that position. Each such maximum annual rate is increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. The Sergeant at Arms is hereafter authorized to adjust the rate of compensation of an individual occupying any such position to a rate not exceeding such maximum rate as authorized by this Order or hereafter changed by or pursuant to law.

(b) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (b) and (c) of this Order) under the jurisdiction of the Majority and Minority Leaders, the Majority and Minority Whips, the Secretary of the Senate, the Secretary for the Minority and the Comptroller of the Senate are increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259.

(c) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259:

(1) the Vice President, for any employee under his jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction (other than the Comptroller of the Senate);

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under the jurisdiction of that Leader or Whip (subject to the provisions of section 2 (c) of this Order);

(4) the Majority Leader, for the Secretary for the Majority so long as the position is occupied by the present incumbent (subject to the provisions of section 2 (b) of this Order);

(5) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of sections 2 (b) and (c) of this Order);

(6) the Sergeant at Arms, for any employee under his jurisdiction;

(7) the Comptroller of the Senate, for his secretary;

(8) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee in that Office (other than the four Senior Counsel);

(9) the Secretary for the Majority and the Secretary for the Minority, for any employee under the jurisdiction of that Secretary (subject to the provisions of section 2 (c) of this Order); and

(10) the Capitol Guide Board, for the Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(d) The figure "$738", appearing in the first sentence of section 106 (b) of the Legislative Branch Appropriation Act, 1963, as amended (as increased by prior Orders of the President pro tempore), shall be deemed to refer to the figure "$777".

(e) The limitation on the rate per hour per person provided by applicable law immediately prior to January 1, 1972, with respect to the folding of speeches and pamphlets for the Senate, is increased by 5.5 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, the chairman of any standing or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate are each authorized to increase the annual rate of compensation of any employee of the committee, or subcommittee thereof, of which he is chairman, by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259.

(b) (1) The figures "$8,118", "$14,514", "$14,022", "$18,450", "$21,402", and "$20,418" appearing in section 105 (e) of the Legislative Branch Appropriation Act, 1968, as amended (as modified by the Order of the President pro tempore of January 15, 1971), shall be deemed to refer to the figures "$8,288", "$15,281", "$14,245", "$18,648", "$22,533", and "$20,461", respectively.

(2) The maximum annual rates of $32,712, $34,104, and $35,496 appearing in such section, and as increased and adjusted by section 5(b)(2) of the order of the President pro tempore of January 15, 1971, are each further increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. Notwithstanding the provisions of this paragraph, any individual occupying a position to which any such rate applies (A) shall not have his compensation fixed at a rate exceeding $32,893, $34,447, or $35,742 per annum, respectively, as long as the annual rate of basic pay for positions at level V of the Executive schedule under section 5316 of title 5, United States Code, is less than $38,000, and (B) shall not have his compensation fixed at a rate exceeding $34,706, $36,260, or $37,814 per annum, respectively, as long as such annual rate for positions at that level V is $38,00 or more but less than $40,000.

SENATOR'S OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this order), and the other provisions of this order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259.

(b) The table contained in section 105 (d)(1) of such Act, as amended by the Supplemental Appropriations Act, 1972, shall be deemed to read as follows:

"$311,577 if the population of his State is less than 3,000,000;

"$338,772 if such population is 3,000,000 but less than 4,000,000;

"$363,377 if such population is 4,000,000 but less than 5,000,000;

"$382,025 if such population is 5,000,000 but less than 7,000,000;

"$402,227 if such population is 7,000,000 but less than 9,000,000;

"$424,760 if such population is 9,000,000 but less than 10,000,000;

"$447,293 if such population is 10,000,000 but less than 11,000,000;

"$469,826 if such population is 11,000,000 but less than 12,000,000;

"$492,359 if such population is 12,000,000 but less than 13,000,000;

"$514,374 if such population is 13,000,000 but less than 15,000,000;

"$536,389 if such population is 15,000,000 but less than 17,000,000;

"$558,145 if such population is 17,000,000 or more.".

(c)(1) The figures "$1,230", "$19,680", and "$26,568" appearing in the second sentence of section 105(d)(2) of such Act shall be deemed to refer to the figures "$1,295", "$20,720", and "$27,972", respectively.

(2) The maximum annual rates of $32,226, $33,702, and $35,178 appearing in such second sentence are each increased by 5.5 percent, and as so increased, adjusted to the nearest multiple of $259. Notwithstanding the provisions of this paragraph, any individual occupying a position to which such rate applies shall not have his compensation fixed at a rate exceeding $32,893, $34,447, or $35,742, per annum, respectively, until the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is increased to $38,000 or more.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,230" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended, shall be deemed to read "$1,295".

(b) The maximum annual rate of compensation of $35,496 appearing in such section, as increased by section 7(b) of the Order of the President pro tempore of January 15, 1971, is further increased by 5.5 percent, and as so increased, adjusted to the nearest mutliple of $259. Notwithstanding the provisions of this subsection, any individual occupying a position to which such rate applies (1) shall not have his compensation fixed at a rate exceeding $35,742 per annum as long as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is less than $38,000, and (2) shall not have his compensation fixed at a rate exceeding $37,814 per annum as long as such annual rate for positions at that level V is $38,000 or more but less than $40,000.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to be paid an increase in the annual rate of his compensation authorized under section 4, 5, or 6 of this Order, the individual designated by such section to authorize an increased rate shall notify the disbursing office of the Senate in writing that he authorizes an increase in such rate for that employee and the date such increase is to be effective.

DUAL COMPENSATION

SEC. 9. The figure "$7,724" contained in section 5533(c)(1) of title 5, United States Code, insofar as such section relates to individuals whose pay is disbursed by the Secretary of the Senate, shall be deemed, insofar as such section relates to such individuals, to refer to the figure "$8,637".

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective January 1, 1972. This section shall not be construed as prohibiting the filing with the disbursing office of the Senate, on any day earlier than such date, a notice authorizing an increase under this Order in the rate of compensation of an individual if such increase is not effective prior to such date.

ALLEN J. ELLENDER,
President pro tempore.

DECEMBER 23, 1971.

TRIBUTES TO THE LATE SENATOR PROUTY OF VERMONT

Mr. AIKEN. Mr. President, I present for printing in the RECORD eulogies to the late Senator Winston L. Prouty, by Gov. Deane C. Davis of Vermont, and by the legislature of the State of Vermont.

The PRESIDING OFFICER. Under the previous order, the eulogies will be printed in the RECORD.

The eulogies are as follows:

REMARKS BY GOV. DEANE C. DAVIS IN EULOGY OF OUR LATE SENATOR WINSTON L. PROUTY

Tonight, in the shadow of Win Prouty's distinguished career, I find myself faced with a difficult task—that of expressing in adequate terms our thoughts of his greatness.

There is no tribute I can pay that will increase his stature in your minds or on the pages of history. The story of this man—friend, patriot, farsighted legislator—cannot be told adequately in words. But it is told, and lastingly told, in his own deeds. It is a story that will not be forgotten by

those of us who knew him, worked with him, and deeply respected him.

I could not let this occasion pass without adding my deeply grateful appreciation for his service to all of us and my profound sorrow at his passing. Win's passing has left a void that is both personal and deep. My affection for Win was borne of a feeling that this great State was his very life and as he was devoted to us, we were devoted to him.

This is not the time to attempt a lengthy statement, but I would, as I reflect upon the life of our late Senator, observe that of all the memories I have of Win, by far the most memorable will always be the enduring example of his personal integrity. He was a superior man because of this.

As the apostle has told us: "Him that is great among you, let him become your servant" and so our good friend made himself a servant, not of one class or group, but of all of us.

We here who knew him best chose him as our standard bearer, and Vermonters of all persuasions reciprocated in expressing their confidence in our selection by entrusting the mantle of leadership upon our chosen representative.

Although a stalwart Republican who strove mightily to advance the interest of our party, I know from having campaigned with him last fall that his constant and principal concern was the welfare and progress of his beloved constituents.

He never forgot that it was the people who sent him to Washington for over twenty years, through years of recession and years of prosperity.

He would not let any of us forget this unassailable confidence in the judgment of Vermonters. He was prepared always to abide by their choices. Vermonters, he reasoned, would not be fooled for long and poor choices would be corrected.

He insisted that a conscientious concern for the common good be held aloft as the standard to which all worthy politicians could aspire.

As he himself so aptly expressed it:

"A man cannot delegate his conscience to the crowd. It is as solitary as his soul."

He would not let any of us forget this bedrock truth and for the enduring example set by this conception of the public trust. I remain indebted to him.

He was truly a Green Mountain patriot. He was forever loyal to old traditions and forever alert to new ways to serve social progress and human freedom. He dedicated his life to compassion and understanding in our behalf.

He focused his legislative concerns on the plight of our elderly, on the need for educating our youngsters and providing meaningful employment for the unskilled and otherwise disadvantaged. His thoughts and energies were directed toward the people and his resolve was to help those who justly needed and deserved the benefits of his legislative skills. Regardless of his work schedule, he cared and took the time to champion the cause of the sick, the afflicted and the destitute.

"When someone writes me on tablet paper with a lead pencil," he once told me, "I figure what he's writing me about is pretty important to him."

He never forgot the people, the plain average people who put their trust in him, nor did they ever once lose faith in him.

This, my friends, was a great and good man. To him we owe a debt of gratitude for demonstrating to us the values of honesty without vanity and friendship without falsehood.

If he were here tonight, he would urge us to maintain the traditions of Vermont's patriots whom he emulated in thought and action.

His life and his achievements will be emulated—but not surpassed. Surely here was a man whose imprint upon this State will be one for good and strength long after all of us have left this earth.

His place in history is secure.

It can truly be said he left "footprints on the sands of time."

And now it is our duty to carry on the legacy of devotion to the public interest which his example has taught us. This is the monument which we can all help build to this outstanding Vermonter.

JOINT RESOLUTION EXPRESSING SYMPATHY ON THE DEATH OF U.S. SENATOR WINSTON L. PROUTY, WHICH WAS ENACTED BY THE GENERAL ASSEMBLY AND APPROVED JANUARY 10, 1972.

In testimony whereof, I have hereunto set my hand and affixed my Official Seal, at Montpelier, this 11th day of January A.D., 1972.

RICHARD C. THOMAS,
Secretary of State.

J.R.H. 58. JOINT RESOLUTION EXPRESSING SYMPATHY ON THE DEATH OF U.S. SENATOR WINSTON L. PROUTY

Whereas, United States Senator Winston L. Prouty died September 10, 1971, at the age of 65; *and*

Whereas, Win Prouty was active in municipal, state and federal government for many years, having served most ably as mayor of his home town of Newport, as representative to the General Assembly from the city in 1941 and 1945, being elected Speaker in 1947, member of the U.S. House of Representatives from 1951 to 1959, and of the U.S. Senate from 1959 until his death; *and*

Whereas, during that long and dedicated service to his beloved city, state and country he dedicated his life and his legislative concerns with humility and integrity on the plight of our elderly, the sick, the afflicted and the destitute. His thoughts and energies were directed on the need for educating our youngsters and providing meaningful employment for the unskilled and otherwise disadvantaged; *and*

Whereas, during that entire period Win Prouty demonstrated his leadership and dedication to the principles of good government. As he himself so aptly expressed it "A man cannot delegate his conscience to the crowd. It is as solitary as his soul"; *and*

Whereas, with the passing of the Honorable Winston L. Prouty, Vermont and the Nation lost a well loved citizen and a humble and dedicated public servant, *now therefore be it*

Resolved by the Senate and House of Representatives: That we express our deep sympathy and deep sense of loss on the death of United States Senator Winston L. Prouty; and be it further

Resolved: That the Secretary of State be hereby instructed to send copies of this resolution to the bereaved family, to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and to our Congressional delegation.

Approved: January 10, 1972.

DEANE C. DAVIS,
Governor.

WALTER L. KENNEDY,
Speaker of the House of Representatives.

JOHN S. BURGESS,
President of the Senate.

THE CONDUCT OF U.S. FOREIGN RELATIONS

Mr. MANSFIELD. Mr. President, an extraordinary article by the chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) was published in the New Yorker magazine of January 10. It presents a perspective of the premises upon which our foreign relations have been conducted that will be educational to the scholar as well as to every American.

The article demonstrates the type of perspective that is so vitally needed by those in charge of, or interested in, foreign affairs and demonstrates again the seriousness with which the distinguished Senator from Arkansas (Mr. FULBRIGHT) takes his responsibilities and the extraordinary contributions he makes to these dialogs.

Congress has a responsibility of oversight in the conduct of Executive actions, but Senator FULBRIGHT provides more than oversight; he provides creativity and perspective.

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:

IN THRALL TO FEAR

For reasons still not wholly known and understood, the grand alliance of the Second World War broke up almost as soon as victory was won, and the powers that had called themselves "the United Nations" fell into the pattern of hostility, periodic crisis, and "limited" war that has characterized world politics for the last twenty-five years. At Yalta in February, 1945, the United States, Great Britain, and the Soviet Union pledged to maintain and strengthen in peace the "unity of purpose and of action" that was bringing victory in war. Just over two years later, on March 12, 1947, President Truman proclaimed the doctrine that came to be recognized as the basic rationale, from the American standpoint, for the Cold War. President Truman based the appeal he made to Congress for support of Greece and Turkey not primarily on the specific circumstances of those two countries at that time but on a general formulation of the American national interest which held that "totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States." President Truman went on to say that at that moment in world history "nearly every nation must choose between alternative ways of life"—the one based on democratic institutions, like our own, and the other based on "terror and oppression," for which the model, of course, was the Soviet Union.

Most of us thought we knew how and why this great transition—from "unity of purpose and of action" to Truman's declaration of ideological warfare—had come about in so short a time. The cause was Soviet Communist aggression, limited at the outset to Stalin's subjugation of Eastern Europe but shown by Marxist-Leninist doctrine to be universal in design, aimed at nothing less than the Communization of the world. American policy and opinion were profoundly influenced in the early postwar period by the thesis that George Kennan, signing himself "X," set forth in *Foreign Affairs* for July, 1947, which depicted Soviet policy as relentlessly expansionist, committed by a fanatical ideology to filling "every nook and cranny available . . . in the basin of world power," and "stopping only when it meets with some unanswerable force." Warning against bluster and excessive reliance on military force, Kennan nonetheless called for an American policy of "unalterable counter force," of "firm and vigilant containment," which he anticipated would "increase enormously the strains under which Soviet policy must operate," and encourage changes within Russia leading to "either the breakup or the gradual mellowing of Soviet power."

From Korea to Berlin to Cuba to Vietnam, the Truman Doctrine governed America's response to the Communist world. Tactics changed—from "massive retaliation" to "limited war" and "counterinsurgency"—but these were variations on a classic formulation based on assumptions that few really questioned. Sustained by an inert Congress, the policymakers of the forties, fifties, and early sixties were never compelled to reexamine the premises of the Truman Doctrine, or even to defend them in constructive adversary proceedings.

Change has come not from wisdom but from disaster. The calamitous failure of American policy in Vietnam has induced on the part of scholars, journalists, and politicians a belated willingness to reexamine the basic assumptions of American postwar policy. Induced by the agitations of the present moment, this new look at old events may well result in an excess of revision, or of emotion, but the corrective is much needed if we are to profit from experience and recast our policies. It cannot be said that the assumptions underlying the Truman Doctrine were wholly false, especially for their time and place. But there is a powerful presumptive case against their subsequent universal application—the case deriving from the disaster of our policy in Asia—and it seems appropriate to look back and try to discover how and why the promise of the United Nations Charter gave way so quickly to ideological warfare between East and West.

Until fairly recently, I accepted the conventional view that the United States had acted in good faith to make the United Nations work but that the Charter was undermined by the Soviet veto. In retrospect, this seems less certain, and one suspects now that, like the League of Nations before it, the United Nations was orphaned at birth. Whereas Woodrow Wilson's great creation was abandoned to skeptical Europeans, Franklin Roosevelt's project was consigned to the care of unsympathetic men of his own country. President Roosevelt died only two weeks before the opening of the meeting in San Francisco at which the United Nations was organized. Truman, as a new and inexperienced President, was naturally more dependent on his advisers than President Roosevelt had been; among these, so far as I know, none was a strong supporter of the plan for a world organization, as Cordell Hull had been. The Undersecretary of State, Dean Acheson, was assigned to lobby for Senate approval of the United Nations Charter, and he recalled later that "I did my duty faithfully and successfully, but always believed that the Charter was impractical." And, with even greater asperity and candor, he told an interviewer in 1970, "I never thought the United Nations was worth a damn. To a lot of people it was a Holy Grail, and those who set store by it had the misfortune to believe their own bunk."

Disdaining the United Nations, the framers of the Truman Doctrine also nurtured an intense hostility toward Communism and the Soviet Union. Stalin, of course, did much to earn this hostility, with his paranoiac suspiciousness, the imposition of Soviet domination in Eastern Europe, and the use of Western Communist parties as instruments of Soviet policy. All this is well known. Less well known, far more puzzling, and also more pertinent to our position in the world today is the eagerness with which we seized upon postwar Soviet provocations and plunged into the Cold War. If it be granted that Stalin started the Cold War, it must also be recognized that the Truman Administration seemed to welcome it.

By early 1947—a year and a half after the founding of the United Nations—the assumptions of the Cold War were all but unchallenged within the United States government. It was *assumed* that the object of Soviet policy was the Communization of the world; if Soviet behavior in Europe and northern China were not proof enough, the design was spelled out in the writings of Lenin and Marx, which our policymakers chose to read not as a body of political philosophy but as the field manual of Soviet strategy. It is true, of course, that by 1947, with the United States virtually disarmed and Western Europe in a condition of economic paralysis, the Soviet Union might plausibly have tried to take over Western Europe through the manipulation of Communist parties, through military intimidation, through economic strangulation, and possibly even through direct military action. The fact that Stalin could have done this, and might well have tried but for timely American countraction through the Marshall Plan and the formation of NATO, was quickly and uncritically taken as proof of a design for unlimited conquest comparable to that of Nazi Germany. Neither in the executive branch of our government nor in Congress were more than a few, isolated voices raised to suggest the possibility that Soviet policy in Europe might be motivated by morbid fears for the security of the Soviet Union rather than by a design for world conquest. Virtually no one in a position of power was receptive to the hypothesis that Soviet truculence reflected weakness rather than strength, intensified by memories of 1919, when the Western powers had intervened in an effort—however halfhearted—to strangle the Bolshevik "monster" in its cradle. Our own policy was formed without the benefit of constructive adversary proceedings. A few brave individuals, like former Vice-President Henry Wallace, offered dissenting counsel—and paid dear for it.

When Great Britain informed the United States in February, 1947, that it was no longer able to provide military support for Greece, the American government was ready with a policy and a world view. The latter was an early version of the domino theory. Knowing, as we thought we did, that Russian support for Communist insurgents in Greece was part of a grand design for the takeover first of Greece, then of Turkey, the Middle East, and so forth, we were not content simply to assume the British role of providing arms to a beleaguered government; instead, we chose to issue a declaration of ideological warfare in the form of the Truman Doctrine. It may well be true that the grand phrases were motivated in part by a desire to arouse this nation's combative spirit, and so to build congressional support for the funds involved, but it is also true—at least, according to Joseph Jones, the State Department official who drafted President Truman's appeal to Congress, under Acheson's direction—that the new policy was conceived not just as a practical measure to bolster the Greeks and Turks but as a historic summons of the United States to world leadership. "*All* barriers to bold action were indeed down," as Jones has written. Among the State Department policymakers, Jones reports, it was felt that "a new chapter in world history had opened, and they were the most privileged of men, participants in a drama such as rarely occurs even in the long life of a great nation."

The Truman Doctrine, which may have made sense for its time and place, was followed by the Marshall Plan and NATO, which surely did make sense for their time and place. But as a charter for twenty-five years of global ideological warfare and unilateral military intervention against Communist insurgencies the Truman Doctrine has a different set of implications altogether. It represents a view of Communim, of the world, and of our role in the world that has had much to do with the disaster of our policy in Asia. Even in the country to which it was first applied, President Truman's basic formulation—that "we shall not realize our objectives . . . unless we are willing to help free peoples to maintain their free institutions"—has been reduced to a mockery. But who remembers now (surely not Mr. Agnew) that the Truman Doctrine was initially designed to preserve democracy in Greece?

Acheson, who prided himself on being a realist, may not have taken all that ideological claptrap seriously, but his successors Dulles and Rusk certainly did, and they framed their policies accordingly. Whatever merit the Truman Doctrine may have had in the circumstances of early-postwar Europe, the bond with reality became more and more strained as the Doctrine came to be applied at times and in places increasingly remote from the Greek civil war. Operating on a set of assumptions that defined reality for them—that as a social system Communism was deeply immoral, that as a political movement it was a conspiracy for world conquest—our leaders became liberated from the normal rules of evidence and inference when it came to dealing with Communism. After all, who ever heard of giving the Devil a fair shake? Since we know what he has in mind, it is pedantry to split hairs over what he is actually doing.

Political pressures at home intensified the virulence of the anti-Communist ideology. In retrospect, the surprise Democratic victory in the election of 1948 was probably a misfortune for the country. The Republicans, frustrated and enraged by their fifth successive defeat, became desperate in their search for a winning issue. They found their issue in the threat of Communism, at home and abroad, and they seized upon it with uncommon ferocity. They blamed the Truman Administration for Chiang Kai-shek 's defeat in the Chinese civil war; they attacked President Truman for the bloody stalemate in Korea, although they had strongly supported his initial commitment; and they tolerated and in many cases encouraged Senator Joseph R. McCarthy's attacks on reputable, and even eminent, Americans. Every American President since that time has been under intense pressure to demonstrate his anti-Communist orthodoxy.

More by far than any other factor, the anti-Communism of the Truman Doctrine has been the guiding spirit of American foreign policy since the Second World War. Stalin and Mao Tse-tung and even Ho Chi Minh replaced Hitler in our minds as the sources of all evil in the world. We came to see the hand of "Moscow Communism" in every disruption that occurred anywhere. First, there was the conception of Communism as an international conspiracy—as an octopus with its body in Moscow and its tentacles reaching out to the farthest corners of the world. Later, after the Sino-Soviet break, sophisticated foreign-policy analysts disavowed the conspiracy thesis, but at the same time they disavowed it they said things that showed that the faith lingered on. Secretary Rusk and his associates professed to be scornful of the conspiracy thesis, but still they defended the Vietnam war with references to a world "cut in two by Asian Communism," the only difference between the earlier view and the later one being that where once we had seen one octopus we now saw two.

If you accepted the premise, the rest followed. If Moscow and Peking represented centers of great power implacably hostile to the United States, and if every local crisis, from Cuba to the Congo to Vietnam, had the Communist mark upon it, then it followed logically that every crisis posed a threat to the security of the United States. The effect of the anti-Communist ideology was to spare us the task of taking cognizance of the specific facts of specific situations. Our "faith" liberated us, like the believers of old, from the requirements of empirical thinking, from the necessity of observing and evaluating the actual behavior of the nations and leaders with whom we were dealing. Like medieval

theologians, we had a philosophy that explained everything to us in advance, and everything that did not fit could be readily identified as a fraud or a lie or an illusion. The fact that in some respects the behavior of the Soviet Union and of China and North Vietnam lived up to our ideological expectations made it all the easier to ignore the instances in which it did not. What we are now, belatedly, discovering is not that the Communist states have never really been hostile to us but that they have been neither consistent nor united in hostility to us; that their hostility has by no means been wholly unprovoked; and that they have been willing from time to time to do business or come to terms with us. Our ideological blinders concealed these instances from us, robbing us of useful information and of promising opportunities. The perniciousness of the anti-Communist ideology of the Truman Doctrine arises not from any patent falsehood but from its distortion and simplification of reality, from its universalization and its elevation to the status of a revealed truth.

Psychologists tell us that there is often a great difference between what one person says and what another hears, or, in variation of the old adage, that the evil may be in the ear of the hearer. When Khrushchev said, "We will bury you," Americans heard the statement as a threat of nuclear war and were outraged accordingly. The matter was raised when Chairman Khrushchev visited the United States in 1959, and he replied with some anger that he had been talking about economic competition. "I am deeply concerned over these conscious distortions of my thoughts," he said. "I've never mentioned any rockets."

We will never know, of course, but it is possible that an opportunity for a stable peace was lost during the years of Khrushchev's power. As we look back now on the many things he said regarding peaceful coexistence, the words have a different ring. At the time, we did not believe them: at best, they were Communist propaganda; at worst, outright lies. I recalled recently, for example, the visit of Chairman Khrushchev to the Senate Foreign Relations Committee on September 16, 1959. Suggesting that we lay aside the polemics of the past, Mr. Khrushchev said:

"We must face the future more and have wisdom enough to secure peace for our countries and for the whole world. We have always had great respect for the American people. We have also been somewhat envious of your achievements in the economic field, and for that reason we are doing our best to try to catch up with you in that field, to compete with you, and when we do catch up to move further ahead. I should say that future generations would be grateful to us if we managed to switch our efforts from stockpiling and perfecting weapons and concentrated those efforts fully on competition in the economic field."

Now, in retrospect, one wonders: why were we so sure that Khrushchev didn't mean what he said about peace? The answer lies in part, I believe, in our anti-Communist obsession—in the distortions it created in our perception of Soviet behavior, and in the extraordinary sense of threat we experienced when the Russians proclaimed their desire to catch up and overtake us economically. In our own national value system, competition has always been prized; why, then, should we have been so alarmed by a challenge to compete? Perhaps our national tendency to extoll competition rather than cooperation as a social virtue and our preoccupation with our own primacy—with being the "biggest," the "greatest" nation—suggest an underlying lack of confidence in ourselves, a supposition that unless we are "No. 1" we will be nothing: worthless and despised, and deservedly so. I am convinced that the real reason we squandered twenty billion dollars or more getting men to the moon in the decade of the sixties was our fear of something like horrible humiliation if the Russians got men there first. All this suggests that slogans about competition and our own primacy in that competition are largely hot air—sincerely believed, no doubt, but nonetheless masking an exaggerated fear of failure, which, in turn, lends a quality of desperation to our competitive endeavors. One detects this cast of mind in President Johnson's determination that he would not be "the first American President to lose a war," and also in President Nixon's spectre of America a "a pitiful, helpless giant."

This kind of thinking robs a nation's policymakers of objectivity and drives them to irresponsible behavior. The distortion of priorities involved in going to the moon is a relatively benign example. The perpetuation of the Vietnam war is the most terrible and fateful manifestation of the determination to prove that we are "No. 1." Assistant Secretary of Defense for International Security Affairs John T. McNaughton, as quoted in the Pentagon Papers, measured the American interest in Vietnam and found that "to permit the people of South Vietnam to enjoy a better, freer way of life" accounted for a mere ten per cent and "to avoid a humiliating U.S. defeat" for up to seventy per cent. McNaughton's statistical metaphor suggests a nation in thrall to fear; it suggests a policymaking élite unable to distinguish between the national interest and their own personal pride.

Perhaps if we had been less proud and less fearful, we would have responded in a more positive way to the earthy, unorthodox Khrushchev. Whatever his faults and excesses, Khrushchev is recognized in retrospect as the Communist leader who repudiated the Marxist dogma of the "inevitability" of war between Socialist and capitalist states. Understanding the insanity of war with nuclear weapons, Khrushchev became the advocate of "goulash" Communism, of peaceful economic competition with the West. During his period in office, some amenities were restored in East-West relations; the Berlin issue was stirred up but finally defused; and most important, the limited-nuclear-test-ban treaty was concluded. These were solid achievements, though meagre in proportion to mankind's need for peace, and meagre, too, it now appears, in proportion to the opportunity that may then have existed. One wonders how much more might have been accomplished—particularly in the field of disarmament—if Americans had not still been caught up in the prideful, fearful spirit of the Truman Doctrine.

Even the crises look different in retrospect, especially when one takes into account the internal workings of the Communist world. A leading British authority on Soviet affairs, Victor Zorza, has traced the beginning of the Vietnam war to a "fatal misreading" by President Kennedy of Khrushchev's endorsement of "wars of national liberation." The Kennedy Administration interpreted Khrushchev's statement as a declaration that the Soviet Union intended to sponsor subversion, guerrilla warfare, and rebellion all over the world. Accordingly, the Administration attached enormous significance to Soviet material support for the Laotian Communists, as if the issue in that remote and backward land were directly pertinent to the world balance of power. It was judged that Khrushchev must be shown that he could not get away with it. We had taught Stalin that "direct" aggression did not pay; now we must teach Khrushchev—and the Chinese—that "indirect" aggression did not pay. In Zorza's view, Khrushchev's talk of "wars of national liberation" was not a serious plan for worldwide subversion but a response to Communist China, whose leaders were then accusing Khrushchev of selling out the cause of revolution and making a deal with the United States.

In the spirit of the Truman Doctrine, the Kennedy Administration read the Soviet endorsement of "wars of national liberation" as a direct challenge to the United States. Speaking of Russia and China, President Kennedy said in his first State of the Union Message, "We must never be lulled into believing that either power has yielded its ambitions for world domination—ambitions which they forcefully restated only a short time ago." I do not recall these words for purposes of reproach; they represented an assessment of Communist intentions that most of us shared at that time, an assessment that had been held by every Administration and most members of Congress since the Second World War, an assessment that had scarcely—if at all—been brought up for critical examination in the executive branch, in congressional committees, in the proliferating "think tanks," or in the universities. Perhaps no better assessment could have been made on the basis of the information available at that time, but I doubt it. I think it more likely that we simply chose to ignore evidence that did not fit our preconceptions, or—as is more often the case—when the facts lent themselves to several possible interpretations we chose to seize upon the one with which we were most familiar: the Communist drive for world domination.

In the amplified form it acquired during the Johnson years, the conception of "wars of national liberation" as part of the Communist design for world domination became the basic rationale for the Vietnam war. All the other excuses—defending freedom, honoring our "commitments," demonstrating America's resolution—are secondary in importance and are easily shown to be fallacious and contradictory. But no one can *prove* that Mao Tse-tung and Brezhnev and Kosygin—or Khrushchev, for that matter—have not harbored secret ambitions to conquer the world. Who can prove that the desire or the intention was never in their minds? The truly remarkable thing about this Cold War psychology is the totally illogical transfer of the burden of proof from those who make charges to those who question them. In this frame of reference, Communists are guilty until proved innocent—or simply by definition. The Cold Warriors, instead of having to say how they knew that Vietnam was part of a plan for the Communization of the world, so manipulated the terms of public discussion as to be able to demand that the skeptics prove that it was not. If the skeptics could not, then the war must go on—to end it would be recklessly risking the national security. We come to the ultimate illogic: war is the course of prudence and sobriety until the case for peace is proved under impossible rules of evidence—or until the enemy surrenders.

Rational men cannot deal with each other on this basis. Recognizing their inability to know with anything like certainty what is going on in other men's minds, they do not try to deal with others on the basis of their presumed intentions. Instead, rational men respond to others on the basis of their actual, observable behavior, and they place the burden of proof where it belongs—on those who assert and accuse rather than on those who question or deny. The departure from these elementary rules for the ascertainment of truth is the essence of the Cold War way of thinking; its weakened but still formidable hold on our minds is indicative of the surviving tyranny of the Truman Doctrine.

In a decade's perspective—and without the blinders of the Truman Doctrine—it even seems possible that the Cuban missile crisis of 1962 was not so enormous a crisis as it then seemed. Khrushchev in the early sixties was engaged in an internal struggle with the Soviet military, who, not unlike our own generals, were constantly lobbying for more funds for ever more colossal weapons systems. Khrushchev had been cutting back

on conventional forces and, largely for purposes of appeasing his unhappy generals, was talking a great deal about the power of Soviet missiles. President Kennedy, however, was applying pressure from another direction: unnerved by Khrushchev's endorsement of "wars of national liberation," he was undertaking to build up American conventional forces at the same time that he was greatly expanding the American nuclear-missile force, even though by this time the United States had an enormous strategic superiority. Khrushchev's effort to resist the pressures from his generals was, of course, undermined by the American buildup. It exposed him to pressures within the Kremlin from a hostile coalition of thwarted generals and politicians who opposed his de-Stalinization policies. In the view of a number of specialists in the Soviet field, the placement of missiles in Cuba was motivated largely, if not primarily by Khrushchev's need to deal with these domestic pressures; it was meant to close or narrow the Soviet "missile gap" in relation to the United States without forcing Khrushchev to concentrate all available resources on a ruinous arms race.

Lacking an expert knowledge of my own on these matters, I commend this interpretation of Khrushchev's purpose not as necessarily true but as highly plausible. As far as I know, however, none of the American officials who participated in the decisions relating to the Cuban missile crisis seriously considered the possibility that Khrushchev might be acting defensively or in response to domestic pressures. It was universally assumed that the installation of Soviet missiles in Cuba was an aggressive strategic move against the United States—that, and nothing more. Assuming Khrushchev's aggressive intent, we imposed on the Soviet Union a resounding defeat, for which Khrushchev was naturally held responsible. In this way, we helped to strengthen the military and political conservatives within the Soviet Union, who were to overthrow Khrushchev two years later. If we had been willing to consider the possibility that Khrushchev was acting on internal considerations, we would still have wished to secure the removal of the missiles from Cuba, but it might have been accomplished by means less embarrassing to Khrushchev, such as a *quid pro quo* under which we would have removed our Jupiter missiles from Turkey.

Khrushchev had paid for his "softness on capitalism" in an earlier encounter with President Eisenhower. After his visit to the United States in 1959, Khrushchev apparently tried to persuade his skeptical, hard-line colleagues that Americans were not such monsters as they supposed and that President Eisenhower was a reasonable man. This heretical theory—heretical from the Soviet point of view—was shot out of the sky along with the American U–2 spy plane in May, 1960. When President Eisenhower subsequently declined the opportunity Khrushchev offered him to disclaim personal responsibility, Khrushchev felt compelled to break up the Paris summit meeting. The U–2 incident was later cited by Khrushchev himself as a critical moment in his loss of power at home. It shattered his plans for President Eisenhower to pay a visit to the Soviet Union—for which, it is said, he had already had a golf course secretly constructed in the Crimea.

There were, of course, other factors in Khrushchev's fall, and perhaps more important ones; nor is it suggested that his intentions toward the West were necessarily benevolent. The point that must emerge, however—more for the sake of the future than for history's sake—is that if we had not been wearing ideological blinders, if our judgment had not been clouded by fear and hostility, we might have perceived in Khrushchev a world statesman with whom constructive business could be done. When he fell, his successors put an end to de-Stalinization, began the military buildup that has brought the Soviet Union to a rough strategic parity with the United States, and greatly stepped up their aid to Communist forces in Vietnam.

While our response to Soviet Communism has been marked by hostility, tensions, and fear, our response to Communism in Asia has been marked by all these and, in addition, by a profound sense of injury and betrayal. Russia never was a country for which we had much affection anyway; it was the bleak and terrible land of the czars, which, when it went to the Communist devils, was merely trading one tyranny for another. But China has a special place in our hearts. We had favored her with our merchants and missionaries and our "open door" policy; we had even given back the Boxer indemnity so that Chinese students could study in America. In the Second World War, we fought shoulder to shoulder with "free" China; we were filled with admiration for its fighting Generalisimo Chiang Kai-shek, and utterly charmed by his Wellesly-educated wife.

When the Chinese darlings of our patronizing hearts went to Communist perdition, we could only assume that they had been sold or betrayed into bondage. It was inconceivable that our star pupils in the East could actually have willed this calamity; it had to be the work of Chinese traitors, abetted by disloyal Americans, joined in an unholy alliance to sell out China to those quintessential bad people the Russians. A white paper on China was issued in 1949, and Secretary of State Acheson's letter of transmittal recounted accurately the intense but futile American effort to salvage a Kuomintang regime whose officials and soldiers had "sunk into corruption, into a scramble for place and power, and into reliance on the United States to win the war for them and to preserve their own domestic supremacy." Then, having exonerated the United States from responsibility for the loss of China, Secretary Acheson wrote:

"The heart of China is in Communist hands. The Communist leaders have forsworn their Chinese heritage and have publicly announced their subservience to a foreign power, Russia, which during the last 50 years, under czars and Communists alike, has been most assiduous in its efforts to extend its control in the Far East. . . . The foreign domination has been masked behind the facade of a vast crusading movement which apparently has seemed to many Chinese to be wholly indigenous and national. . . .

"However tragic may be the immediate future of China and however ruthlessly a major portion of this great people may be exploited by a party in the interest of a foreign imperialism, ultimately the profound civilization and the democratic individualism of China will reassert themselves and she will throw off the foreign yoke. I consider that we should encourage all developments in China which now and in the future work toward this end."

In these words, the United States government enunciated what became its Truman Doctrine for Asia. By the end of 1950, we were at war with China in Korea, but even then our belief in Moscow's control of the "Communist conspiracy" or our sentimental unwillingness to believe that China of its own free will would make war on the United States, or some combination of the two, made it difficult for us to believe that the Chinese Communists had intervened in Korea for reasons directly related to their own national interest. The fact that General MacArthur's sweep to the Yalu was bringing American ground forces within striking distance of China's industrial heartland in Manchuria was not at that time widely thought to be a factor in China's intervention in the war. The view of Dean Rusk, then the Assistant Secretary of State for Far Eastern Affairs, was that "the peace and security of China are being sacrificed to the ambitions of the Communist conspiracy," and that "China has been driven by foreign masters into an adventure of foreign aggression which cuts across the most fundamental national interests of the Chinese people." Mr. Rusk went on to say, "We do not recognize the authorities in Peiping for what they pretend to be. The Peiping régime may be a colonial Russian government—a Slavic Manchukuo on a larger scale. It is not the government of China."

Nonetheless, for the first time in our history we were coming to regard China as our enemy, departing from a half century's policy of supporting a strong, independent China. One of our leading young China scholars, Warren I. Cohen, has provided this summary in his recent book, "America's Response to China":

"The great aberration in American policy began in 1950, as the people and their leaders were blinded by fear of Communism and forgot the sound geopolitical, economic, and ethical basis of their historic desire for China's well-being. Having always assumed that China would be friendly, Americans were further bewildered by the hostility of Mao's China, leading them to forsake their traditional support of Asian nationalism, not only in China, but wherever Marxist leadership threatened to enlarge the apparent Communist monolith. With the full support of the American people, Truman and his advisors committed the United States to a policy of containing Communism in Asia as well as in Europe—and in practice this policy became increasingly anti-Chinese, an unprecedented campaign of opposition to the development of a strong, modern China. There was no longer any question of whether the United States would interpose itself between China and her enemies, for the United States had become China's principal enemy."

Over the years, the notion of a "Slavic Manchukuo" gave way to a recognition of the Chinese Communists as the authors of their own deviltry. This was not a fundamental change of outlook toward "international Communism" but an accommodation to a fact that had become obvious to all save the most fanatical and self-deluded Cold Warriors: that, far from being an instrument in Moscow's hands, the Chinese Communist leaders had become defiant and hostile toward Soviet leadership of the Communist world. Now, from the American viewpoint, there were two "Communist conspiracies," and of the two great Communist states China was judged to be the more virulent and aggressive. The Chinese had withdrawn their troops from Korea in 1958, limited themselves to a border adjustment with India in 1962 (when they could have detached a large area after defeating the Indian Army), and assumed no direct combat role in the developing conflict in Vietnam. But these facts were judged to be less important than the fact that they were Communists, who openly advocated subversion and "wars of national liberation." Communist China was not judged to be aggressive on the basis of its actions; it was presumed to be aggressive because it was Communist.

In much the same way that Khrushchev terrified us with his talk of "burying" us, the Chinese sent us into a panic with their doctrine of "wars of national liberation." While the Russians had become relatively benign, contained by America's nuclear deterrent, China claimed to be impervious to the horrors of nuclear war and was still intensely revolutionary itself, committed to the promotion and support of "wars of national liberation" throughout the world. The Kennedy and Johnson Administrations concluded that still another gauntlet had been flung down before the United States. To meet this presumed threat, our military planners invented the strategy of "counterinsurgency,"

which they undertook to put into effect in Vietnam.

None of this is meant to suggest that China would have been friendly to us, if we ourselves had not been hostile. I do not know whether the Chinese Communists would have been friendly or not; nor, I think, does anyone else know, since we never tried to find out. Most probably, in the turmoil of revolutionary change, the Chinese Communists would have been deeply suspicious and verbally abusive of the citadel of capitalism and the leader of the Western "imperialist camp" even if the United States had been willing to come to terms with them. Be that as it may, an objective observer must admit that on the basis of their actual behavior the Chinese Communists have never proved the Hitlerian menace we have taken them to be. They have not tried to conquer and subjugate their neighbors. Nor, upon examination, does the doctrine of "wars of national liberation," as set forth by Lin Piao, constitute a charter of Chinese aggression. It stresses self-reliance and the limitations of external support. Lin Piao wrote:

"In order to make a revolution and to fight a people's war and be victorious, it is imperative to adhere to the policy of self-reliance, rely on the strength of the masses in one's own country and prepare to carry on the fight independently even when all material aid from outside is cut off. If one does not operate by one's own efforts, does not independently ponder and solve the problems of the revolution in one's own country, and does not rely on the strength of the masses, but leans wholly on foreign aid—even though this be aid from Socialist countries which persist in revolution—no victory can be won, or be consolidated even if it is won.

The sudden reversal of American policy toward China in 1971 necessarily invites our attention back to the basic causes of these two decades of conflict between the United States and the Communist countries of Asia. In the course of these two decades, we have engaged in armed conflict with all three of these countries—with Communist China, North Korea, and North Vietnam—but we have never fought a war with the Soviet Union, which is the only Communist power capable of posing a direct strategic threat to the United States. Although it was assumed from the outset of the Cold War that our real strategic interests lay in Europe rather than in Asia, it has been in Asia that we have thought it necessary to fight two wars to enforce the Truman Doctrine. Looking back, one is bound to ask whether these conflicts were inescapable. Having avoided war in the region we judged more important, and with the power we judged the greater threat, why have we found it necessary to fight in Asia, at such enormous cost in lives and money and in the internal cohesion of our own society? Is it possible that if Mao Tse-tung and Ho Chi Minh had not borne the title of "Communist" but otherwise had done exactly what they have done in their two countries, we would have accepted their victories over their domestic rivals and lived with them in peace? I think it quite possible that we would have come to terms wth both. Apart from the North Korean invasion of South Korea, which was a direct violation of the United Nations Charter, the Communist countries of Asia have done nothing that has threatened the security of the United States and little, if anything, that has impaired our legitimate interests. We intervened in the Chinese and Vietnamese civil wars only because the stronger side in each case was the Communist side and we assumed that, as Communists, they were parties to a conspiracy for world domination, and were therefore our enemies. We intervened against them not for what they *did* but for what they *were* and for what we assumed to be their purpose.

There were Americans in official positions who provided a more objective, less ideologically colored view of the Chinese Communists back in the days before they won their civil war. These wartime observers in China, who included John S. Service, John Paton Davies, and Colonel David D. Barrett, were themselves sympathetic to the Nationalist government of Chiang Kai-shek, at least to the extent of urging it to make the reforms that might have allowed it to survive. Nonetheless, they reported objectively on the weakness and corruption of the Kuomintang and on the organization and discipline of the Communists in their headquarters in Yenan. They also provided information suggesting that at that time Mao Tse-tung and his associates had no intention whatever of becoming subservient to the Soviet Union and hoped to cooperate with the United States. Not only did the observations of these men go unheeded; they themselves were subsequently denounced and persecuted. Colonel Barrett did not attain the promotion to brigadier general that his service in the Army merited, and Service and Davies were hounded out of the Foreign Service, charged with advocacy of, and even responsibility for, the Chinese Communist victory that they had foreseen. The nation was deprived thereafter of their accurate observations and valuable insights, and, what is more, their surviving colleagues in the bureaucracy got the unmistakable message that it was unhealthy to deviate from the anti-Communist line. To survive and get ahead, it was necessary to see the world as the world was defined by the Truman Doctrine.

Having been thoroughly educated in the catechism of the Cold War, we look back now with astonishment on the reports of Service, Barrett, and others from China in 1944. Barrett and Service came to know the Chinese Communist leaders well through the Dixie Mission, which was the name given to the mission of the United States Army Observer Group, headed by Colonel Barrett, at Chinese Communist headquarters in Yenan in late 1944 and early 1945. Their assignment was to assess the potential contribution of the Chinese Communists to a final assault against Japanese forces in China. They came to know and respect the Communists, not for their ideology but for their discipline, organization, fighting skills, and morale.

In his recent book "Dixie Mission," Colonel Barrett comments, "The Chinese Communists are our bitter enemies now, but they were certainly 'good guys' then, particularly to the airmen who received their help." Colonel Barrett found that as sources of information about the Japanese the Communists were "all we had hoped they would be and even more"—among other reasons, because they "could almost always count on the cooperation and support of a local population." American observers sent out into the countryside from Yenan "all expressed the belief that the Communists were being supported by the entire civil population." In retrospect, Colonel Barrett felt that he had been "oversold" on the Communists in Yenan, but nonetheless he comments, "The overall look of things there was one which most Americans were inclined to regard with favor." American observers were impressed by the absence of sentries around the leaders, in contrast with the Nationalist capital in Chungking, where there were "police and sentries everywhere;" by the tough, well-nourished, and well-dressed troops, in contrast with the poorly nourished, shabbily uniformed Kuomintang soldiers; and by the general atmosphere of roughhewn equality and shared sacrifice. "As a whole," Colonel Barrett comments, "the Communist outlook on life was old-fashioned and conservative."

Even the flamboyant and volatile General Patrick J. Hurley—Roosevelt's special emissary and, later, Ambassador to Chungking—was at first favorably impressed by the Chinese Communists' terms for a settlement with Chiang Kai-shek. In November, 1944, Hurley flew to Yenan, where he signed an agreement with Mao Tse-tung calling for a coalition government; Hurley pronounced the agreement eminently fair, and even told Mao—in Barrett's hearing—that the terms did not go far enough in the Communists' favor. Chiang Kai-shek rejected Hurley's plan out of hand; nonetheless, Hurley thereafter supported Chiang as the sole leader of China and publicly blamed the failure of his mediation on his Embassy staff, whom he accused, in effect, of being pro-Communist. Although he contended in November, 1944, that "if there is a breakdown in the parleys it will be the fault of the Government and not the Communists," and although he told President Truman in May, 1945, that the Communists were holding back "in my opinion with some degree of reasonableness," Hurley still backed the Nationalist regime to the hilt, and in the spring of 1945 even reimposed the ban on nonmilitary travel by Americans to the Communist headquarters in Yenan. Thus began the process, culminating in the failure of the mission undertaken in 1946 by General George C. Marshall through which, without having ascertained their attitudes and intentions toward us, the United States government came to identify the Chinese Communists as enemies of the United States—presaging the policy of isolation and containment that was to endure at least until 1971.

This was not at the outset the result of decisions made at the highest level. President Roosevelt wrote to a friend on November 15, 1944, "I am hoping and praying for a real working out of the situation with the so-called Communists." And in March, 1945, in reply to a question from Edgar Snow about whether we could work with two governments in China for purposes of prosecuting the war with Japan, Roosevelt said, "Well, I've been working with two governments there. I intend to go on doing so until we can get them together." Within a few weeks after that interview, Roosevelt was dead and the conduct of American foreign policy had passed into the hands of the inexperienced President Truman. Neither Roosevelt nor Truman, however, seems in the last days of the Second World War to have given serious and sustained thought to the internal problems of China. Both Presidents were preoccupied with the defeat of Japan, and it had been clear for some time that China was unlikely to play a decisive role in bringing that about.

There was no lack of information available to the United States Government in 1944 and 1945 about either the weakness and corruption of the Kuomintang or the strength and aspirations of the Chinese Communists. The views of the professional diplomats were rejected, however, and their reports ignored—that is, until the witchhunters in the State Department and Congress got hold of them. In June, 1944, for example, a warning was conveyed to Washington in a memorandum written principally by John Service:

"The situation in China is rapidly becoming critical. . . . There is a progressive internal breakdown. . . . The fundamental cause of this suicidal trend is that the Kuomintang, steadily losing popular support . . . is concentrating more and more on putting the preservation of its shrinking power above all other considerations.

"These policies, unless checked by the internal opposition they evoke and by friendly foreign influence, seem certain to bring about a collapse which will be harmful to the war and our long-term interests in the Far East."

At the same time that American observers in China were reporting the enfeeblement of the Kuomintang, they were providing detailed accounts of the growing military and political strength of the Communists. Service summed up the importance of these circumstances for the United States:

From the basic fact that the Communists have built up popular support of a magnitude and depth which makes their elimination impossible, we must draw the conclusion that the Communists will have a certain and important share in China's future.

His colleague John Paton Davies put it even more succinctly:

The Communists are in China to stay. And China's destiny is not Chiang's but theirs.

The Communists were not only strong but—at least, so they said—willing and eager to cooperate with the United States. In his recent book "The Amerasia Papers: Some Problems in the History of U.S.-China Relations," Service reports on a long conversation he had with Mao Tse-tung in Yenan on August 23, 1944, in which Mao emphasized that the Chinese Communists were "first of all Chinese," and appealed for American help for China after the war. "The Russians," Mao said, "have suffered greatly in the war and will have their hands full with their own job of rebuilding. We do not expect Russian help." America, he thought, could help China, and he told Service:

"China must industrialize. This can be done—in China—only by free enterprise and with the aid of foreign capital. Chinese and American interests are correlated and similar. They fit together, economically and politically. We can and must work together.

"The United States would find us more cooperative than the Kuomintang. We will not be afraid of democratic American influence—we will welcome it. We have no silly ideas of taking only Western mechanical techniques.

"America does not need to fear that we will not be cooperative. We must cooperate and we must have American help. This is why it is so important to us Communists to know what you Americans are thinking and planning. We cannot risk crossing you—cannot risk any conflict with you."

We do not know, of course, whether Mao was sincere in his repeated appeals for American friendship. The reason we do not know is that we never tried to find out. In our postwar anti-Communist hysteria, we assumed that the Chinese Communists were hostile simply because they were Communists, and we also assumed, despite impressive evidence to the contrary, that they were subservient to the Soviet Union. We thereupon made our fateful commitment to the losing side in the Chinese civil war—the side of whose weakness and probable defeat full warning had been provided by our own highly competent observers. From these events followed two wars and a quarter century of bitter hostility, which might have been avoided if we had remained neutral in the Chinese civil war.

This is not to say that Mao might have been expected to put Sino-American relations back on their prewar basis. He most assuredly would not have done that. Certainly our pretensions to a benevolent paternalism toward China would have been given short shrift; the age of missionaries and the "open door" was at an end. But whatever our relations might have been if we had not intervened in the civil war, they would at least have been initiated on a more realistic and more promising basis. We might have long ago established a working relationship at least as tolerable, and as peaceful, as the one we have had with the Soviet Union: the sort of relationship toward which—belatedly but most commendably—the Nixon Administration now seems to be working.

The anti-Communist spirit that governed our relations with China after the Second World War also shaped—and distorted—our involvement in Vietnam. Our interest in China's civil war, though tragic in consequence, was attenuated and limited in time. Vietnam was less fortunate. In a test application of the new science of "counterinsurgency," it has been subjected to a prolonged, though inconclusive, devastation. But for the American intervention, the Vietnamese civil war would have ended long ago—at infinitely less cost in lives, money, and property—in a nationalist Communist victory under the leadership of Ho Chi Minh.

In retrospect, it is difficult to understand how we could have accepted the "loss" of China but not the "loss" of the small, undeveloped countries on China's southern border. Only in the context of the assumptions of the Truman Doctrine could the Vietnamese war ever have been rationalized as having something to do with American security or American interests. Looking through our anti-Communist prism, we saw Ho Chi Minh not as a Vietnamese nationalist who was also a Communist but as a spear-carrier for the international Communist conspiracy, the driving force for a "world cut in two by Asian Communism." The Johnson Administration, as Mr. Johnson's memoirs show clearly, believed itself to be acting on President Truman's doctrine that "totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States." President Johnson and his advisers believed this despite a set of facts that did not fit the formula: the fact that the issue was not between a "free people" and a "totalitarian regime" but between rival totalitarian regimes; the fact that the war was not one of international aggression, "direct" or otherwise, but an anti-colonial war and then a civil war; and the fact that, in any case, the country was too small and the issue too indigenous to Vietnam to pose anything resembling a threat to "the foundations of international peace," much less to "the security of the United States." In practice, the issue had resolved itself into a corruption of the Truman Doctrine—into the fear of a "humiliating" defeat at the hands of Communists. It was not so much that we needed to win, or that there was anything for us to win, as that our leaders felt—for reasons of prestige abroad and political standing at home—that they could not afford to "lose." President Johnson said soon after he took office, "I am not going to be the President who saw Southeast Asia go the way China went."

The notion that a country is "lost" or "gone" when it becomes Communist is a peculiarly revealing one. How can we have "lost" a country unless it was ours to begin with—unless it was some part of an unacknowledged American imperium? To my eye, China under Mao is in the same place on the map that it was in the days of Chiang. Where, then, has it "gone"? To the moon? Or to the devil? The "lost" and "gone" concept is indicative of a virulent sanctimoniousness that is only now beginning to abate. In October, 1971, members of the Senate gave President Tito of Yugoslavia a cordial reception at an afternoon tea. In September, 1959, a similar reception was held for Chairman Khrushchev, but one senator refused to sit in the room with him—for fear, apparently, of ideological contamination. As the President now moves toward lifting the "quarantine" of China, as we recognize at long last that there really still is a China, Communist though it may be, the tragic irrationality of the Vietnam war is thrown once again into high relief. All that bloodletting—not just for ourselves but for the Vietnamese—could have been avoided by an awareness that Communism is not a contagious disease but a political movement and a way of organizing a society.

In the case of Ho Chi Minh, as in the case of Mao Tse-tung, we might have come to this awareness twenty-five years—and two wars—ago. Ho, in fact, was a lifelong admirer of the American Revolution, of Lincoln, and of Wilson and his Fourteen Points. As a young man, in 1919, he went to the Versailles Peace Conference to appeal for self-determination for his country in accordance with President Wilson's principles, but no attention was paid to him, and Vietnam remained within the French empire. In 1945, Ho Chi Minh started his declaration of independence for Vietnam with words taken from our own: "All men are created equal." In 1945 and 1946, Ho addressed a series of letters to the United States government asking for its mediation toward a compromise with France, but none of these letters were ever answered, because Ho was, in Dean Acheson's words, "an outright Commie."

President Roosevelt, during the Second World War, had favored independence for Indo-China, or a trusteeship, but in any event he was opposed to letting the French recover Indo-China for their colonial empire. Roosevelt's attitude was spelled out in a memorandum to Secretary of State Hull dated January 24, 1944, which appears in the Pentagon Papers:

I saw Halifax last week and told him quite frankly that it was perfectly true that I had, for over a year, expressed the opinion that Indo-China should not go back to France but that it should be administered by an international trusteeship. France has had the country—thirty million inhabitants—for nearly one hundred years, and the people are worse off than they were at the beginning.

As a matter of interest, I am wholeheartedly supported in this view by Generalissimo Chiang Kai-shek and by Marshal Stalin. I see no reason to play in with the British Foreign Office in this matter. The only reason they seem to oppose it is that they fear the effect it would have on their own possessions and those of the Dutch. They have never liked the idea of a trusteeship because it is, in some instances, aimed at future independence. This is true in the case of Indo-China.

Each case must, of course, stand on its own feet, but the case of Indo-China is perfectly clear. France has milked it for one hundred years. The people of Indo-China are entitled to something better than that.

British intransigence and the requirements of military strategy prevented Roosevelt from acting on his anticolonialist preference, which was so wholly in keeping with the traditional American outlook. When the Truman Administration took office, American policy was changed, and the French were officially assured by our State Department that the United States had never questioned, "even by implication, French sovereignty over Indo-China." The United States would advocate reforms but would leave it to the French to decide when, or even whether, the people of Indo-China were to be given independence: "Such decisions would preclude the establishment of a trusteeship in Indo-China except with the consent of the French Government."

Whether this initial commitment to France—and therefore against Ho—was the result of growing anti-Communist sentiment within the Truman Administration or of friendly feelings toward the colonial powers on the part of President Truman's old-line advisers, or both, American policy was constant and firm from that time on. Later, when Acheson and his colleagues were attempting to build up France as the centerpiece of the anti-Communist coalition in Europe, the commitment to France's position in Indo-China became stronger than ever. By 1951, the United States was paying forty per cent of the cost of France's war against the Vietminh, and by 1954 eighty per cent. After the Geneva settlement, American military aid to South Vietnam averaged about two hundred million dollars a year between 1955 and 1961. By 1963, South Vietnam ranked first among the recipients of our military assistance, and only India and Pakistan received more in economic assistance. In this way, foreign aid served as a vehicle of commitment, from our initial support of French colonial rule in Indo-China to send-

ing an American force of over half a million men to fight in a war that is still going on.

As with China, it might have been different. The Pentagon Papers show that between October, 1945, and February, 1946, Ho Chi Minh addressed at least eight communications to the President of the United States or to the Secretary of State asking America to intervene for Vietnamese independence. Earlier, in the summer of 1945, Ho had asked that Vietnam be accorded "the same status as the Philippines"—a period of tutelage to be followed by independence. Following the outbreak of hostilities in Vietnam in the early fall of 1945, Ho made his appeals to President Truman on the basis of the Atlantic Charter, the United Nations Charter, and Mr. Truman's Navy Day speech of October 27, 1945, in which the President expressed the American belief that "all peoples who are prepared for self-government should be permitted to choose their own form of government by their own freely expressed choice, without interference from any foreign source." In November, 1945, Ho wrote to the Secretary of State requesting the initiation of cultural relations through the sending of fifty Vietnamese students to the United States. On February 16, 1946, in a letter to President Truman, Ho referred to American "complicity" with the French, but he still appealed to the Americans "as guardians and champions of world justice" to "take a decisive step" in support of Vietnamese independence, and pointed out that he was asking only what had been "graciously granted to the Philippines." On September 11, 1946, Ho communicated directly with the United States government for the last time, expressing to an American Embassy official in Paris his own admiration for the United States and the Vietnamese people's respect and affection for President Roosevelt; again he referred to America's granting of independence to the Philippines.

As far as the record shows, neither President Truman nor any of his subordinates replied to any of Ho Chi Minh's appeals. He got his answer nonetheless, clearly and unmistakably. By late 1946, with the first Vietnam war under way, American military equipment was being used by the French against the Vietnamese. As far as the United States government was concerned, Vietnam was a sideshow to the real struggle against Communism, in Europe. If the price of French support in that struggle was American support of French colonialism in Southeast Asia—and we seem never to have questioned that it was—the Truman Administration was ready to pay that price. Ho, after all, was just another "Commie." In a cable to the United States representative in Hanoi in May, 1949, Acheson said:

Question whether Ho as much Nationalist as Commie is irrelevant. All Stalinists in colonial areas are Nationalists. With achievement Nat'l aims (i.e., independence) their objective necessarily becomes subordination state to Commie purposes.

In February, 1950, the recognition of Ho Chi Minh's government by the Communist powers moved Secretary Acheson to declare that this recognition "should remove any illusion as to the nationalist character of Ho Chi Minh's aims and reveals Ho in his true colors as the mortal enemy of native independence in Indochina."

As with China under Mao Tse-tung, we might have got along tolerably well—maybe even quite well—with a unified, independent Vietnam under Ho Chi Minh if our leaders' minds had not been hopelessly locked in by the imprisoning theory of the international Communist conspiracy. Ho was an authentic Vietnamese patriot, revered by his countrymen. He had led the resistance to the Japanese within Vietnam and had welcomed the Allies as liberators. His unwillingness to submit to foreign domination was clear—or should have been clear—from the outset. But if the evidence of Ho Chi Minh's Vietnamese nationalism ever reached the American policymakers, it certainly did not persuade them. Acting Secretary of State Acheson instructed an American diplomat in Hanoi in December, 1946, "Keep in mind Ho's clear record as agent international communism." In February, 1947, by which time the war between France and the Vietminh was well under way, Secretary of State Marshall conceded, in another cable, that colonial empires were rapidly becoming a thing of the past but, as to Vietnam:

We do not lose sight of the fact that Ho Chi Minh has direct Communist connections, and it should be obvious that we are not interested in seeing colonial empire administrations supplanted by philosophy and political organizations emanating from and controlled by the Kremlin.

General Marshall's words were prophetic of what became a guiding principle—or, more accurately, a guiding aberration—of American foreign policy for at least two decades: where Communists were involved, the United States would depart from its traditional anticolonialism and support the imperial power. Assuming as we did that Communists by definition were agents of an international conspiracy, we further assumed that a Communist leader could not be an authentic patriot no matter what he said or did. If the choice was to be—as we then rationalized it—between the old imperialism of the West and the new imperialism of the Kremlin, we would side with the former. Where possible, we told ourselves, we would support or nurture "third forces"—genuine independence movements that were neither colonialist nor Communist—and where such movements existed, as in India, we did support and welcome independence. Where they did not exist, as in Vietnam and Cuba and the Dominican Republic, we intervened, making these countries the great crisis areas of postwar American foreign policy and, in the process, earning for the United States the reputation of foremost imperialist power.

The role is one to which we are unsuited by temperament and tradition. Until a generation ago, America was regarded throughout the world—and deservedly so—as the one great nation that was authentically anti-imperialist. It was Woodrow Wilson who introduced into international relations the revolutionary principle of "justice to all peoples and nationalities, and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak." Perhaps it was a utopian dream, but Americans meant it at the time, and the world believed we meant it, and we had plans for realizing it: first the Covenant of the League of Nations and then the United Nations Charter, both purporting to introduce the rule of law into international relations, both purporting to supplant the old imperialist anarchy with the principle of trusteeship for the weak and the poor, both purporting to supplant the old balance of power with a new community of power.

The dismay and disillusion that have overtaken so many of us in America are the result, I believe, of our departure from these traditional American values. The corrosive, consuming fear of Communism has driven us into a role in the world which suits us badly and which we deeply dislike. I think that the American people have sensed this all along and are moving now to an active, conscious awareness of their own real preferences. It is no easy matter for us to knock over the household gods we have been taught for a generation to worship, but I think the American people have all along had an uneasy awareness that the dictators and warlords with whom we have been in league for so long are not really our kind of people. I suspect, too, that if Khrushchev and Mao and Ho had not had the name of "Communist" we might have recognized them as men we could respect: tough and sometimes ruthless, but patriots nonetheless; committed to an ideology we would not want for ourselves, but also committed to the well-being of their own people. With China's entry into the United Nations and the President's imminent trip to Peking, we may find that we can do business with the Chinese, just as we have done with the Russians. We may even find it possible to be cordial, as we have been with the Yugoslavs. Eventually (who knows?), we may even kick over the household gods once and for all and become friends. Huck Finn, when he helped Jim escape, knew it was a sin and knew he was going to go to Hell for it, but he liked Jim, so he did it anyway.

History is filled with turning points that are not easily identified until long after the event. It seems almost inevitable that Vietnam will prove to have been a watershed in American foreign policy, but it is by no means clear what kind. Before it can represent anything of a lasting historical nature, the war, of course, will have to be ended—not just scaled down but ended, and not just for Americans but for the tortured Vietnamese as well. One assumes that it will be ended—if not by our present leaders, then by their successors—and that when at last it is, the American people will once again in their history have the opportunity and the responsiblity of deciding where they want to go in the world, of deciding what kind of role they want their country to play, of deciding what kind of country they want America to be.

The Truman Doctrine, which made limited sense for a limited time in a particular place, has led us in its universalized form to disaster in Southeast Asia and demoralization at home. In view of all that has happened, it seems unlikely that we will wish to resume the anti-Communist crusade of the early postwar years. Yet it is not impossible; memories will fade, controversies may recur; pride may once again be challenged and competitive instincts aroused. The Truman Doctrine is frayed and tattered, but it is still an influence upon our policy and outlook.

I do not think we are going to return to isolationism. I will go further: I do not think there is or ever has been the slightest chance of the United States' returning to the isolationism of the prewar years. It will not happen because it cannot happen: we are inextricably involved with the world politically, economically, militarily, and—in case anyone cares—legally. We could not get loose if we wanted to. And no one wants to. The people who are called "neo-isolationists" are no such thing; the word is an invention of people who confuse internationalism with an intrusive American unilateralism, with a quasi-imperialism. Those of us who are accused of "neo-isolationism" are, I believe, the opposite: internationalists in the classic sense of that term—in the sense in which it was brought into American usage by Woodrow Wilson and Franklin Roosevelt. We believe in international cooperation through international institutions. We would like to try to keep the peace through the United Nations, and we would like to try to assist the poor countries through institutions like the World Bank. We do not think the United Nations is a failure; we think it has never been tried.

In the aftermath of Vietnam, it is America's option—not its "destiny," because there is no such thing—to return to the practical idealism of the United Nations Charter. It is, I believe, consistent with our national tradition and congenial to our national character, and is therefore the most natural course for us to follow. It is also the most logical, in terms of our interests and the interests of all other nations living in a diverse and crowded but interdependent world in the age of nuclear weapons.

The essence of any community—local, national, or international—is some degree of acceptance of the principle that the good of the whole must take precedence over the good of the parts. I do not believe that the

United States (or any of the other big countries) has ever accepted that principle with respect to the United Nations. Like the Soviet Union and other great powers, we have treated the United Nations as an instrument of our policy, to be used when it is helpful but otherwise ignored. Orphaned at birth by the passing from the political scene of those who understood its potential real usefulness, the United Nations has never been treated as a potential world-security community—as an institution to be developed and strengthened for the long-term purpose of protecting humanity from the destructiveness of unrestrained nationalism. The immediate, short-term advantage of the leading members has invariably been given precedence over the needs of the collectivity. That is why the United Nations has not worked. There is no mystery about it, no fatal shortcoming in the Charter. Our own federal government would soon collapse if the states and the people had no loyalty to it. The reason that the United Nations has not functioned as a peace-keeping organization is that its members, including the United States, have not wished it to; if they had wanted it to work, it could have—and it still can. Acheson and his colleagues were wholly justified in their expectation of the United Nations' failure; their own cynicism, along with Stalin's cynicism, assured that failure.

Our shortsighted, self-serving, and sanctimonious view of the United Nations was put on vivid display in the reaction to the General Assembly's vote to take in mainland China and expel Nationalist China. Mr. Nixon expressed unctuous indignation, not at the loss of the vote but at the "shocking demonstration" of "undisguised glee" shown by the winners, especially those among the winners to whom the United States had been "quite generous"—as the President's press secretary was at pains to add. Mr. Agnew at least spared us the pomposities, denouncing the United Nations as a "paper tiger" and a "sounding board for the left," whose only value for the United States was that "it's good to be in the other guy's huddle." The Senate Minority Leader was equally candid: "I think we are going to wipe off some of the smiles from the faces we saw on television during the United Nations voting." The revelations are striking. Having controlled the United Nations for many years as tightly and as easily as a big-city boss controls his party machine, we had got used to the idea that the United Nations was a place where we could work our will; Communists could delay and disrupt the proceedings and could exercise the Soviet veto in the Security Council, but they certainly were not supposed to be able to win votes. When they did, we were naturally shocked—all the more because, as one European diplomat commented, our unrestrained arm-twisting had turned the issue into a "worldwide plebiscite for or against the United States," and had thereby made it difficult for many nations to judge the question of Chinese representation on its merits. When the vote went against us nonetheless, the right-wingers among us saw that as proof of what they had always contended—that the United Nations was a nest of Red vipers.

The test of devotion to the law is not how people behave when it goes their way but how they behave when it goes against them. During these years of internal dissension over the war in Vietnam, our leaders have pointed out frequently—and correctly—that citizens, however little they may like it, have a duty to obey the law. The same principle applies on the international level. *"Pacta sunt servanda,"* the internal lawyers say: "The law must be obeyed." The China vote in the General Assembly may well have been unwise, and it may have shown a certain vindictiveness toward the United States, but it was a legal vote, wholly consistent with the procedures spelled out in the Charter.

The old balance-of-power system is a discredited failure, having broken down in two world wars in the twentieth century. The human race managed to survive those conflicts; it is by no means certain that it would survive another. This being the case, it is myopic to dismiss the idea of an effective world peace-keeping organization as a visionary ideal—or as anything, indeed, but an immediate, practical necessity.

With the cooperation of the major powers—and there is no reason in terms of their own national interests for them not to cooperate—the conflict in the Middle East could be resolved on the basis of the Security Council resolution of 1967, to which all the principal parties have agreed, calling for a settlement based upon, among other things, the principle of "the inadmissibility of the acquisition of territory by war." Similarly, I believe that the Security Council should have interceded to prevent war between India and Pakistan. This proved impossible largely because of the self-seeking of the great powers, each of which perceived and acted upon the situation not on its merits, and certainly not in terms of human cost, but in terms of its own shortsighted geopolitical interests. Moreover, the Security Council waited until war had actually broken out and an Indian victory seemed certain before attempting to intervene. The time for the United Nations to act on the crisis in East Pakistan was many months earlier, when the Bengalis were being brutally suppressed by the armed forces of the Pakistani government. The United Nations, it is true, is proscribed by Article 2 of the Charter from intervention in "matters which are essentially within the domestic jurisdiction of any state," but Article 2 also states that "the principle shall not prejudice the application of enforcement measures" under the peace-enforcement provisions of the Charter. By any reasonable standard of judgment, the mass killing of East Bengalis and the flight of ten million refugees across the Indian border constituted a "threat to the peace" as that term is used in the Charter, warranting United Nations intervention. I do not think it likely under present circumstances that the United Nations could play a mediating role in the war in Indo-China, the disabling circumstance being that the belligerents, including the United States, almost certainly would not permit it. But, looking ahead to the time when the Vietnam war is finally ended, I think it would be feasible for the United Nations to oversee and police a general peace settlement, through a revived International Control Commission, and perhaps through the assignment of peace-keeping forces.

When a conflict presents what Article 39 of the Charter calls a "threat to the peace, breach of the peace, or act of aggression," it makes no sense to leave the issue to the caprices of the belligerents. I have never understood why it is so widely regarded as outrageous or immoral for external parties to impose a solution to a dangerous conflict. Under the United Nations Charter, the Security Council has full authority—possibly even an obligation—to impose a settlement upon warring parties that fail to make peace on their own. The very premise of the Charter is that warring nations can no longer be permitted immunity from a world police power. As far as the United States is concerned, it is worth recalling that the United Nations Charter is a valid and binding obligation upon us, ratified as a treaty with the advice and consent of the Senate. And as far as the parties to various conflicts are concerned—Arabs and Israelis, Indians and Pakistanis—it needs to be recognized that they, too, are signatories to the Charter and are therefore obligated, under Article 25, "to accept and carry out the decisions of the Security Council in accordance with the present Charter."

In this century of conflict, the United States led in the conception and formulation of plans for an international peace-keeping organization. We did not invent the idea, nor have we been its only proponents, but without our leadership the ideal embodied in the Covenant of the League of Nations and the United Nations Charter would not have attained even the meager degree of realization it has attained. It is this idea of world organization—rather than our democratic ideology, or our capitalist economy, or our power and the responsibilities it is supposed to have thrust upon us—that entitles the United States to claim to have made a valuable and unique contribution to the progress of international relations. Coming as we did on the international scene as a new and inexperienced participant, with a special historical experience that had sheltered us from the normal pressures of world politics, we Americans pursued our conception of a rational world order with uncritical optimism and excessive fervor. As a consequence, the first encounter with disappointment, in the form of Stalin and his ambitions in Eastern Europe, sent us reeling back from Wilsonian idealism. And from the practical idealism of the United Nations Charter we reverted to the unrealistic "realism" of the Truman Doctrine in its universalized application. We made the conversion from Wilson to Machiavelli with zeal.

At no point, of course, did the leading architects of Vietnam or the Bay of Pigs or the participants in the Cuban missile crisis conceive of themselves as power brokers pure and simple. Having themselves been reared in the tenets of Wilson-Roosevelt internationalism, and having lived through the disaster of appeasement in the inter-war years, they came to regard themselves as "tough-minded idealists," as "realists with vision," and, above all, as practitioners of collective security against aggression. What the United Nations could not do the United States could and would do, with allies if possible, alone if necessary. We, after all, were the ones who bore the burden of the "responsibilities of power." It was up to us, if all else failed, to curb aggression at its outset, to accept whatever sacrifices had to be made in order to defend the "free world" against the new Communist predator. We, in effect, were the successors to an enfeebled United Nations, and were forced by fate and circumstance to endure the glory and agony of power.

In this heady frame of reference, Vietnam and its consequences might be conceived as the ripe harvest of the American era of romantic "realism." Primarily, no doubt, because of its military failures, the war in Vietnam has brought many Americans to an awareness of the sham idealism of the "responsibilities of power," and of the inadequacies of the new "realism" once it is stripped of its romantic facade. Many young Americans, and some older ones, are appalled not only by the horrors of the Vietnam war but by the deterministic philosophy, espoused by intellectuals who came into government in the sixties, of a permanent, purposeless struggle for power and advantage. We seem to be discovering once again that without a moral purpose and frame of reference there can be no such thing as "advantage."

America may be coming near to the closing of a circle. Having begun the postwar period with the idealism of the United Nations Charter, we retreated in disillusion to the "realism" of the Cold War, to the Truman Doctrine and its consummation in Vietnam, easing the transition by telling ourselves that we were not really abandoning the old values at all but simply applying them in more practical ways. Now, having failed most dismally and shockingly, we are beginning to cast about for a new set of values. The American people, if not their

leaders, have come near to recognizing the failure of romantic, aggressive "realism," although a new idealism has yet to take its place. Perhaps we will settle for an old idealism—the one we conceived and commended to the world but have never tried.

SENATOR RANDOLPH ANNOUNCES INTENTION TO IMPROVE PENDING BLACK LUNG LEGISLATION

Mr. RANDOLPH. Mr. President, after holding intensive field hearings on the need to improve the black lung benefits title of the Federal Coal Mine Health and Safety Act, I have concluded that further improvements must be made to insure a better life for miners, widows, and children.

My bill, S. 2675, is cosponsored by Senator BYRD of West Virginia; by Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare under whose aegis the black lung hearings have been held; by Senator HARTKE, author of another pending black lung bill, S. 2289; and by Senator SCHWEIKER, who so ably assisted me in conducting the field hearings.

To date, 4 days of hearings have been held on this vital subject by the Subcommittee on Labor, including two very well attended field hearings in Beckley, W. Va., and Scranton, Pa.

Mr. President, the committee has accumulated a wealth of additional knowledge during these hearings, and although 2 final days of hearings have been scheduled, during which the committee will hear the views of the Departments of Health, Education, and Welfare, and Labor, among others, I believe certain preliminary judgments can be made with respect to deficiencies in the existing law, and inadequacies in pending legislation.

Widows, who know best what their husbands' breathing difficulties were, cannot prove their eligibility for benefits because they lack medical evidence.

Miners, whose breathing is so severely restricted that they can no longer walk the one flight of stairs to their bedrooms, cannot prove that their health disability is caused by their employment in the mines.

Miners, whose health has been wrecked by their 30 and 40 years of service to the national need for energy, cannot find the necessary medical services because of the severe unavailability of clinics and other medical facilities.

The legislation passed late last year in the House of Representatives, H.R. 9212, is a good bill. It would in several ways improve the incomplete benefits now available to miners, their widows, and their children.

S. 2675 would be a further improvement, because of its occupational definition of total disability, and because it would extend benefits to miners with respiratory and pulmonary impairments other than black lung. But in my estimation, even the provisions of S. 2675 can be improved to better meet the legitimate needs and rightful expectations of disabled miners and their families.

Therefore, I will introduce amendments to S. 2675 which will:

First, relax evidence requirements for widows claiming benefits;

Second, add surface miners to those eligible for black lung benefits;

Third, authorize additional specialized medical services in mining areas;

Fourth, authorize research to devise simple, yet effective, tests to detect pulmonary and respiratory impairments;

Fifth, allow the transfer of benefits to dependents where desirable;

Sixth, authorize free disability tests for those unable to pay for them;

Seventh, establish a presumption that a miner's disability arose from employment in the mines; and

Eighth, assure that all benefits in title IV are available retroactive to December 30, 1969.

Each of these proposed amendments offers a tangible improvement in the black lung benefit program, and in a very real sense, will offer life, breath, and hope for many to whom despair is now their daily expectation. It is my hope that all these proposals will be accepted in the final legislation. Other recommendations may be expected to unfold as the committee further explores ways to perfect the program. I pledge my cooperation to this end.

THE CENTER FOR EARLY DEVELOPMENT, LITTLE ROCK, ARK.

Mr. FULBRIGHT. Mr. President, Parade magazine for January 9 contains an article about the Center for Early Development, a pioneering day-care program in Little Rock.

According to the article in Parade, educational authorities regard the Little Rock experiment so important that the Office of Child Development is investing $2 million in it, and the participants include the State of Arkansas Department of Education, the Little Rock school system, and the University of Arkansas.

The center is directed by Dr. Bettye Caldwell, who initiated the program 2 years ago. The Parade article describes the center in this way:

> Unlike many other day-care centers, which are merely places where working mothers park their toddlers all day and pick them up at night, Little Rock's Kramer School, a renovated structure in a mixed black-and-white neighborhood, is a hive of purposeful activity where three-year-olds learn numbers and four-year-olds explore basic math concepts. And all the while the building also functions as a regular elementary school through the sixth grade.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

A PIONEERING DAY-CARE PROGRAM—HOW MUCH CAN A 6-MONTH INFANT LEARN IN SCHOOL?

(By Ted Irwin)

LITTLE ROCK, ARK.—A day-care center in Little Rock has come up with the revolutionary idea of using the time that small children are left in its custody to educate them, rather than wasting it in aimless activities.

This concept of early, continuous, away-from-home education for youngsters starting almost in infancy is attracting deep interest elsewhere and, if it spreads, could change the face of American education.

Unlike many other day-care centers, which are merely places where working mothers park their toddlers all day and pick them up at night, Little Rock's Kramer School, a renovated structure in a mixed black-and-white neighborhood, is a hive of purposeful activity where three-year-olds learn numbers and four-year-olds explore basic math concepts. And all the while the building also functions as a regular elementary school through the sixth grade.

FIRST YEARS CRITICAL

"Our is a new kind of educational delivery system," rays Dr. Bettye Caldwell, the petite redhead educator in charge of the Center for Early Development, which runs the innovative Kramer project. "The first few years of life are critical for normal development as a human being. In this process, day care should not be separated from education. We're striving for a setup which can be adopted or adapted in other communities through the nation."

So important do educational authorities regard the Little Rock experiment that the Office of Child Development is investing $2 million in it, and the participants include the State Department of Education, the Little Rock school system, and the University of Arkansas.

Central to the project, initiated by Bettye Caldwell two years ago, is the conviction that it is not only possible but essential to give formal education to very young children whose mothers are separated from them all day. By providing instruction in the same building where they'll later be enrolled as elementary school pupils, the program gives them a running start on their formal education.

"An early enrichment program can't touch the lives of children in a significant way unless it's linked to public education," says Bettye, who is the wife of a surgeon. "Only in the public schools can you reach a large number of day-care children, and give them educational continuity, starting with infancy. Like this, there is no danger of a child losing out later, as some children in other programs have lost their early gains."

For the day-care children, school starts early at the center—at 7 a.m., two hours before the regular elementary grade children arrive. Their parents drop them off on the way to their jobs. Care starts at the age of six months, with very small children spending their day in the "Baby House," a maple-paneled structure with playpens, cribs, a feeding table, playground equipment, and even a diaper-changing room. Teachers and aides are on hand to blow bubbles and play games.

REWARD SYSTEM

Special rooms are reserved for three-, four-, and five-year-olds, where learning begins in earnest. Teaching techniques are adapted to age groups. Three-year-olds, for instance, learn numbers by being handed small dolls and taught to give back one, two, and three at a time. A successful performance brings a feeling of pride and a special snack for reward. Children six and over go to the school's regular classes, their day-care blended in imperceptibly with education.

One of the center's most intriguing rooms is the "Learning Library," where special equipment has been installed to help slow learning. A projector flashes letters, numbers and geometric patterns for the child to identify or copy. The latest in audiovisual apparatus helps speed up language proficiency and development. Activities go right on for these youngsters after the regular school pupils leave at 3:15, with the children remaining until their parents pick them up at 5 p.m.

"Most day-care centers," says Bettye Cald-

well, "look at their function from the standpoint of the mother's benefit—relieving them from custodial care of their children during working hours. We look at it from the standpoint of the child's enrichment. Our day care actually strengthens the bonds between mothers and children. In many cases, we take enough of a load off a mother so that she can be more loving, more patient, and take more time to play with the child. Separation during the day can heighten the enjoyment and appreciation of each other when they are together. The quality of the relationship is improved."

Dr. Caldwell, herself the mother of 13-year-old twins and a professor at the University of Arkansas, says the day-care program emphasizes emotional stability, mental health, and mutual understanding, as well as academic subjects. The result is improved behavior and a warm attitude toward school. One three-year-old named Billy, who threw temper tantrums regularly when he first came, has now turned into a creative and constructive leader of other small fry at the Center. Eighteen-month Janice, pale, underweight, and unsmiling, seemed destined to be retarded, like her older brother. At the Center, before long she was laughing, verbalizing, clapping her hands to music.

It's the same story for older day-care children who attend regular classes at the Kramer School. Says 11-year-old Tommy, the product of a broken home: "Every one treats me like an animal except the people here at school." Says nine-year-old Martha: "In my old school you couldn't even stand up without being yelled at."

Parents are delighted with the results they have observed in their youngsters: Says Pauline Trotter: "If my two-year-old daughter Paula were left with a baby-sitter, she'd be kept in front of the TV all day, scared to move. At the Center she's learning to play with others." Mrs. Vivian Runyon, mother of six, is so happy with the Center that she's returned to the neighborhood just to be near it, after moving away for a while.

"I thought no one could take care of my kids like I could," she explains. "But I'm amazed at how much Rodney, who's only two, was able to learn at the Center. I'm sure that my older boys would be better students today if they had been in the program when they were very young." Adds a waitress with two youngsters at the Center: "My kids are getting a lot better start in life than I or my husband ever did."

The effect on the children also is measurable in objective tests. After one year at the Center, day-care preschoolers registered a gain of 12 I.Q. points as compared to 2 points for a control group on the outside. On achievement tests involving language and numbers concepts, Center children gained 16 scaled points more than other youngsters. In a test that involved associating spoken words with pictures, day-care four-year-olds outscored a control group in the same age range.

With results like these—and with an estimated 6 million pre-school children with working mothers in the U.S.—it's no wonder that education and child psychologists from all over the country, and some from countries like Brazil, Israel, Taiwan and Ghana, have been flocking to Little Rock to see the Center for Early Development in action.

ENTHUSIASTIC RESPONSE

One of these visiting experts, Prof. Joan Costello of Yale's Child Study Center, sums up the prevalent feeling this way: "This is one of the most exciting educational demonstrations going on in the country today. In this combination of day care and school, elementary grade pupils have a chance to learn about little children and parenthood. The day-care children were deeply interested in what they were doing and learning a lot. What impressed me is that it is a happy place. I see the Kramer program as potentially a model for the schools of the future."

To Bettye Caldwell, the promise of her day-care venture extends far beyond proficiency in schoolwork.

SOCIAL AWARENESS STRESSED

"Before a child leaves us we hope he will have acquired a love of learning and be able to meet all later school experiences," she says. "But we want him also to have made substantial progress toward becoming a responsible citizen. We must think big about what kind of children we want to have in the next generation, about which kind of human characteristics will stand them in good stead in this rapidly changing world. Early child care, such as is being practiced at this Center, can be a powerful instrument for influencing the quality of life."

A WISH FOR 1972

Mr. SCOTT. Mr. President, a wish for 1972 by William Randolph Hearst, Jr., presents some interesting reading. He examines four points related to the recent India-Pakistan outbreak.

Mr. President, his points of view are most interesting and present some interesting areas for consideration.

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:

A WISH FOR 1972

(By William Randolph Hearst, Jr.)

NEW YORK.—The day after Christmas is hardly the ideal time to read about a serious matter which has been bugging me for several weeks—but it should be done while the news is still fresh.

Under the circumstances I will try to be as brief and uncomplicated as possible. If you are disinclined to follow me right now, why not clip this short column and read it later? I honestly believe its points are well worth considering.

What I want to get off my chest is my irritation with the tidal flood of criticism which hit the Nixon administration for its role in the India-Pakistan war. Seldom has there been an outpouring so unjust and misleading.

Before starting, I'd like to make clear that I am no blatant apologist for the administration in this. Many Americans think we had no business being involved in the mess. I certainly agree there are some squabbles we should stay away from and really valid criticism could be directed at the Nixonites for messing around in this one.

Having gotten involved however—if you believe the critics, both domestic and foreign—the White House and its advisers acted like a bunch of blundering idiots both before and during the South Asia conflict.

According to them the United States was somehow responsible for the war because for years it had been giving aid to the military government of Pakistan.

When war broke out, as the pundits see it, the U.S. made a series of major foreign policy blunders by blaming India and then further infuriating its leaders by sending a naval task force into the Bay of Bengal.

The result of our picking the wrong side, it is contended, is that American prestige in the subcontinent has been damaged beyond repair while that of Russia—which supported India—has been greatly strengthened in the area.

Almost all of this is either balderdash, wishful thinking or confusion on the part of the critics, whose identity goes a long way toward understanding why they say what they have been saying.

They are: (a) our powerful liberal press and broadcast industry; (b) the cabal of Democratic presidential hopefuls and doves in Congress; (c) the left-wing press of western Europe; and, (d) some well intentioned but poorly informed people who apparently have been influenced or misled by the others.

What the first three categories have in common is their automatic, built-in tendency to take a dim view of the Nixon administration and to knock it in every possible way.

You can see this clearly if you take the major criticisms cited earlier and examine them one by one—so let's do just that.

Point one—rather than abetting the war, the U.S. for years tried to maintain peace by working with the now defunct SEATO (Southeast Asia Treaty Organization).

As a matter of fact in 1962 President, Jack Kennedy approved a secret agreement with the then President Ayub Khan to defend Pakistan specifically against Indian aggression.

But we also helped far from perfect India—to the tune of 10 billion in aid since 1947, 700 million last year. And that hardly makes the U.S. appear anti-India.

Point two—If blaming India for the outbreak of hostilities was a blunder, then all the countries of the world—outside of Russia, Cuba and eight other Red satellites—were equally wrong. In voting at the United Nations, only Russia and her nine stooges failed to agree that India's armed invasion of East Pakistan was a flagrant breach of the peace and inexcusable direct interference with the internal affairs of a neighbor.

Point Three—The U.S. was accused of "gunboat diplomacy" in sending the nuclear-powered aircraft carrier Enterprise and sister vessels to the general war zone. But suppose British planes had been unable to evacuate our nationals stranded in Dacca? And how come nobody howled at the Russian flotilla prowling the same waters?

Point Four—It is true that U.S.-Indian relations have suffered as a result of the war while Russia has benefited—but hardly to the extent suggested by the critics' crocodile tears. Russia no more won the war for India than we lost it for Pakistan. India has emerged as a strong power in its own right, beholden to nobody yet anxious to pursue the most neutral course possible.

Fences can and will be mended, an aim already expressed by Indian Prime Minister Indira Gandhi. Meanwhile, just why was it stupid for our leaders to have tried to prevent the war? Or protect our nationals? Or vote in the UN in support of a fundamental principle of peace which every other member nation outside the world of Red Russia likewise supported?

Think it over—and I suspect you will wind up agreeing with me that the Nixon critics have indeed been outrageously unjust and most of them deliberately misleading.

As usual.

It would be foolish to make a wish that in the coming year these critics might become generous, or constructive, because they never will.

Maybe, however, it is just barely possible that 1972 might see them becoming a little more fair in their pronouncements. Even a tiny little bit.

That is my sincere wish and hope—just as it is my sincere wish and hope that the coming year will bring health, contentment and prosperity to you and to all your loved ones.

A Happy New Year!

TRIBUTE TO JAYCEES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the

distinguished Senator from North Carolina (Mr. JORDAN), paying tribute to the Jaycees.

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

SENATOR EVERETT JORDAN PAYS TRIBUTE TO JAYCEES

Mr. Jordan of North Carolina. Mr. President, January 16–22 is being observed as Jaycee Week in my State of North Carolina and across the Nation.

The 10,000 young men who are members of 229 Jaycee community chapters throughout my state have established a fine record of meaningful public service which I heartily commend.

Their vigor, enthusiasm and dedication have been brought to bear on environmental problems, in promoting organized youth activities and in working for better health programs, to name but a few of their contributions. Particularly noteworthy are their efforts in the battle against cystic fibrosis.

Mr. T. Avery Nye, Jr. of Fairmont, North Carolina, is the current and 35th president of the North Carolina Jaycees. Before attaining this post, he served in a variety of responsible positions and established himself as a distinguished North Carolinian and a hard-working business and community leader.

I extend my sincere and enthusiastic congratulations to him and to all North Carolina Jaycees for a memorable week which will herald many years of continued and dedicated public service and community leadership.

CLEVELAND PLAIN DEALER SUPPORTS BAN ON DES

Mr. PROXMIRE. Mr. President, on November 8, I introduced legislation to ban the use of a cancer-causing artificial hormone, diethylstilbestrol, in the raising of livestock. This growth promoter continues to be used despite the fact that residues are found in about one-half of 1 percent of slaughtered carcasses in violation of the law.

Since I introduced the bill I have received literally hundreds of letters and telegrams of support. There is a deep concern in this country over the use of artificial additives in our food supply—additives that are added for economic, not nutritional, reasons.

I was particularly pleased by an editorial published in one of the Nation's finest newspapers and Ohio's largest, the Cleveland Plain Dealer, endorsing my proposal. I ask unanimous consent that this succinct statement be printed in the RECORD.

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

[From the Cleveland Plain Dealer, Dec. 20, 1971]

BAN HORMONE IN LIVESTOCK FEED

Diethylstilbestrol (DES) is an artificial hormone fed to cattle and sheep to make them grow faster.

It is known to cause cancer in laboratory animals and may possibly cause cancer in humans.

As a known cancer-causing agent, it should not be permitted to show up in food; yet traces of it are found routinely in spot checks of beef and sheep carcasses (in one of every 200 animals checked, on the average).

Because of its potential health hazard, DES should be banned as an animal fattener. It is banned in many nations, including Argentina, Australia, Israel and most of Europe. The United Nations Food and Agriculture Organization has called for a worldwide prohibition.

Sen. William Proxmire, D-Wis., has introduced a bill in the Senate that would prohibit use of DES in U.S. agriculture. We support it.

Federal regulations have recently been tightened to require livestock growers to cease feeding the hormone to their animals seven days before slaughter, rather than two days before, the previous requirements.

But even so, there is no assurance that DES residues will cease showing up in meat, for there is no way for federal inspectors to enforce compliance. It's all voluntary, and that's not good enough.

DEPARTMENT OF COMMERCE OMBUDSMAN

Mr. TOWER. Mr. President, on April 1, of last year, I placed in the RECORD the announcement by Secretary of Commerce Maurice H. Stans that he was creating in his Department the position of ombudsman. The job of this new office, ably filled by Thomas E. Drumm, Jr., was to assist businesses and their representatives in their dealings with the Federal Government. At that time, I expressed optimism that this program would help the American businessman to more successfully communicate with his government. I am happy to report that this optimism has been justified after only half a year of operations by the ombudsman. I ask unanimous consent that an assessment of this program be printed at this point in the RECORD.

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

COMMERCE DEPARTMENT'S OMBUDSMAN OPERATION TERMED SUCCESSFUL

Secretary of commerce Maurice H. Stans today termed the Department's new Ombudsman for Business operation a success and said it has had "a special impact" on government-business relations in its first half-year of existence.

"The success of this pioneering program demonstrates that it is filling a need and we are gratified that so many businessmen and others are making use of the service", he said.

The Secretary established the office in the Commerce Department last April 1, to give the business community a central point within the Federal establishment where it could bring its questions, requests for information, and its complaints and criticisms. He appointed Thomas E. Drumm, Jr., a veteran Commerce Department official, as Ombudsman.

The Ombudsman has already handled more than 1,600 inquiries from businessmen and others in 49 states and 16 foreign countries on such matters as government procurement planning and practices, contract awards, how to sell to the U.S. Government, how to get on bidder's lists, industrial and economic development, government loans, guarantees and grants, industrial pollution abatement, commodity standards, product standards, metrication, franchising, patents and marketing and distribution.

Other questions put to the Ombudsman have dealt with economic stabilization measures, surplus property, truth-in-lending and advertising, foreign trade, non-tariff barriers, foreign market data, joint ventures and licensing abroad, import impact, trade with the Soviet Bloc and with Mainland China.

Users of the service have included individual businessmen, firms of all sizes, minority enterprises, educational institutions, trade associations, professional societies, students, attorney, accountants, members of Congress, state and local government entities, banks, and Chambers of Commerce.

Secretary Stans noted that the activity of the Ombudsman is helping to improve communication and understanding between government and business and to facilitate and extend the furnishing of available government services.

"For example," said the Secretary, "the 'good offices' approach of the Ombudsman has resulted in clarification of misunderstandings between government agencies and the business public. And, practices and procedures in particular situations of which business has complained have been corrected or explained."

"Businessmen", Drumann stated, "know that the Federal Government has set up many programs of benefit to them.

"However, these same businessmen often do not know what the programs are, or where to go to find out information about them. The Ombudsmen Office, acting as a one-stop service for them, is helping to solve this problem."

Other Federal departments and agencies are giving Drumm full cooperation. Fifteen have established liaison relations with him through nineteen senior officials who assist the Ombudsman on all matters that involve the jurisdiction of their departments.

Drumm also said that the 42 field offices of the Commerce Department, located strategically throughout the country, have been invaluable in giving on-the-spot service in follow-up and consultations. (Drumm can be contacted at the Department of Commerce, Washington, D.C., 20230, telephone (202) 967–3176.

THE SPACE SHUTTLE SYSTEM

Mr. FULBRIGHT. Mr. President, the Nixon administration has announced its intention to proceed with the development of a space shuttle system, at a cost of $6.5 billion or more over a 6-year period. According to news stories, estimated costs of designing and building two flight test vehicles would be $5.5 billion. There would also be an additional "contingency" fund of about $1 billion.

This would be an extremely large expenditure for a project which can hardly be considered vital. The administration proposes to spend this money at a time when many important social and development programs are severely limited because of a lack of funds.

I hope that in considering appropriations for the space shuttle system we will weigh the value and importance of this program against other needs in our society.

In a recent editorial, the Arkansas Gazette questioned the wisdom of allocating such a large amount of money for this project at this time. I concur with the Gazette:

Even if the proposition can be accepted that there is in truth a need for a space shuttle transportation system—a proposition that we are not prepared to accept—there is little justifiable reason for undertaking the program here and now at the beginning of 1972.

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 Arkansas Gazette, Jan. 8, 1972]

"SAVING" MONEY WITH THE SPACE SHUTTLE

President Nixon has gone ahead and ordered the National Aeronautics and Space Ad-

ministration to develop a space ship to shuttle between earth and orbiting space vehicles, and now the country has sitting in its lap a minimum bill of $5.5 billion. It is not a very pleasant way to start a new year, for sure, except for all those who benefit in the aerospace and related industries.

Even if the proposition can be accepted that there is in truth a need for a space shuttle transportation system—a proposition we are not prepared to accept—there is little justifiable reason for undertaking the program here and now at the beginning of 1972. Mr. Nixon resorted to the elaborate language that is becoming one of his trademarks in saying the system would "help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s."

It is a familiar piece of rationale for the whole sweep of the space program that perhaps was appropriate a decade ago, before the United States became bogged down in an Asian war it has been too slow to quit, or the cities erupted, or the national economy plunged into deep trouble (to mention just three examples in modern-day America). With the burdens facing the country at the start of 1972, a new program in space to cost a minimum of $5.5 billion is sheer folly. There is no evident reason why the United States must right now undertake a shuttle program to serve the two decades immediately in front of us. What, indeed, is the rush, from a scientific or national interest standpoint?

The country is going to save money, Mr. Nixon contends, by building reusable space ships, instead of the one-shot rockets the space program has become accustomed to using. Officials with the president at his announcement ceremony estimated that the shuttle system would reduce the cost of putting a pound of payload into space from between $600 and $700 to about $100. Thus, the country is asked to accept the faulty logic inherent in the Madison Avenue technique that it is "saving" money by spending money.

Could a space shuttle program be started just as well in 1975 or 1985? The answer, of course, is yes, but that does not take into account the purely coincidental circumstance that the shuttle announcement took place at the California White House, just an easy helicopter hop into Los Angeles, where unemployment—especially in the aerospace industry—has been running even higher than the national unemployment figures that Richard Nixon has to do something about in Election Year '72. It was left to NASA Director James Fletcher to note that the $5.5 billion shuttle program would create 50,000 new jobs—about half of them on the West Coast.

Unemployment is a pesky political problem for Mr. Nixon all right, but if the shuttle is in fact an example of the way it's going to be tackled the costs are going to be terribly painful to bear.

POLICEMAN OF THE YEAR AWARD

Mr. BEALL. Mr. President, in recent years much criticism has been directed toward the police of our Nation. Thus, it is refreshing indeed to read of two officers whom I think more truly represent law enforcement than the negative reports. I refer to the selection of two Baltimore policemen, Patrolmen Leonard V. Santivasci and Robert E. Cohen, as winners of the Sunpapers Policeman of the Year Award.

Interestingly enough, Patrolmen Santivasci and Cohen are a team, working from the same cruiser. They symbolize the spirit of police work, teamwork, and cooperation, which is often ignored by the public. Together they patrol east and northeast Baltimore, protecting and serving its residents.

These officers have an enviable record, including arrests in three homicides, two rapes, 40 robberies, and 75 narcotics violations. But it is significant to note that their most fulfilling act came not as a result of any arrest, but from saving the life of a 4-year-old boy. Clearly, Patrolmen Santivasci and Cohen represent a new breed of policemen, dedicated not only to crime detection but to community involvement as well.

I ask unanimous consent that the editorial be printed in the RECORD, so that Senators may have the opportunity to read of these fine accomplishments.

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

POLICEMAN OF THE YEAR AWARD

The selection of the *Sunpapers* Policeman of the Year Award goes to two winners this year and reflects the highest degree of professionalism. The recipients, Patrolmen Leonard V. Santivasci and Robert E. Cohen, joined the city force in the late 1950's and have served together nearly the entire time. Their dedication is not just to routine crime detection, but to community involvement as well. During award ceremonies at the Chamber of Commerce, the officers noted their most fulfilling act came not from any of the countless cases they worked on or numerous arrests they made. Rather it came from their role in saving the life of a 4-year-old boy who lay apparently dead after mistakenly ingesting a dose of methadone.

The Eastern police district, one of the largest in the city, is a sprawling collection of tenements, low and middle-income row houses, heavy industries, neighborhood shopping centers, gaudy used car lots, markets, retail stores and discount centers. Crime is its hidden neighbor. Fortunately for the residents and businessmen in East and Northeast Baltimore, however, men like Patrolmen Santivasci and Cohen are dutifully on patrol. Their remarkable achievements include arrests in 3 homicides, 2 rapes, 40 burglaries and 75 narcotics offenses, including 1 in which $150,000 worth of heroin was seized.

The interesting aspect of their selection is that they are a team. Only once since the *Sunpapers* established this award have two men been selected the same year, and both were from separate stations. Patrolmen Santivasci and Cohen, moreover underline what reliability and friendship can accomplish. They are two men, operating out of the same cruiser, cooperating in a common cause and serving the larger community. The results they've achieved seem to say it all.

DES MOINES REGISTER SAYS OIL DEPLETION SUBSIDY UNWARRANTED

Mr. PROXMIRE. Mr. President, on January 10, 1972, the Des Moines Register, one of the finest newspapers in the United States, published an editorial entitled "Misused Oil Subsidy."

The editorial correctly points out that the fundamental argument in support of the big oil depletion tax allowance, which costs other taxpayers some $2.25 billion a year and raises their taxes by that amount, is that it encourages exploration of oil.

But the editorial also properly points out that in recent years exploration has fallen off. The subsidy is not doing the job it is intended to do.

If we determine that it is in the national interest to subsidize exploration for oil and gas, we should do so directly. We should pay those who explore for and find oil and gas. We should not pay out massive sums totaling billions if the sums do not even achieve their stated purpose. Also, it should be remembered that if a firm drills for oil and hits a dry hole, it can write off that expense in any event.

What we have is a system which not only allows costs and dry holes to be expensed, but which essentially fails to tax success. Yet if a man earn an income by the sweat of his brow or in most other businesses through effort, he is taxed generally at rates which rise progressively with his income.

The oil depletion allowance and other tax favors effectively reverse this system. Many men in the oil business, instead of paying larger amounts in taxes as their incomes grow, actually pay little or nothing in Federal taxes. Many become tax free or pay at rates lower than the average family pays even though they receive many tens of thousands of dollars in income.

That is an unfair system. It is not only unfair but it appears conclusively that the tax favors are not achieving the purposes for which they were allegedly designed.

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:

MISUSED OIL SUBSIDY

Since 1926, the federal income tax law has permitted oil and gas producers to deduct 27½ per cent 22 percent starting in 1970) from their taxable income. Some other extractive industries get similar treatment, but oil is the big one. The argument for this gross favoritism has been that they are drawing on a wasting asset, and that the allowance would encourage them to explore for new sources.

The argument was dubious at best. Successful exploration brings its own rewards, and conservation of wasting assets is hardly accomplished by so indirect a method as a tax subsidy.

President Truman called the oil depletion allowance the most inequitable provision in the tax laws, which is saying a lot, but he was unable to get it repealed. Senator Paul Douglas crusaded against it throughout his career in Washington (1948–66). No results. Drives in the later 1960s brought only a slight reduction in the percentage, though tax favoritism to the oil industry costs taxpayers some $2.25 billion a year and dots the Southwest with millionaires. This figure is mostly oil depletion allowance, but there are a number of other special benefits to oilmen.

Now a forthcoming report of the Joint Senate-House Economic Committee shows that the oil firms are falling down on exploration. Instead, they are pouring money into non-oil ventures at home and abroad.

They are buying into competing fuels like coal and uranium. They are getting into other industries because of a competitive advantage derived from the oil subsidy. They are adding profits for lavish living—and for influencing congressmen and senators to keep the subsidies coming.

Oil state members of Congress tend to rally around to protect this subsidy which brings so much easy money to their region, so that repeal or modification is difficult.

But the facts are clear. The subsidy is un-

warranted. It does not buy what it is alleged to buy.

Senator William Proxmire (Dem., Wis.) is chairman of the Joint Economic Committee and he does not intend to let the matter drop with one report. He was a leader in the fight against the oil depletion allowance in the 1960s which led to the reduction in 1970. He starts hearings on oil prices Jan. 10.

"We're certainly not giving the major oil companies these subsidies so that they can expand in Europe and buy their competitors here at home," Proxmire said.

But that is what they are doing.

RECOMMENDATIONS FOR INCREASED PRICE SUPPORTS FOR AGRICULTURAL COMMODITIES

Mr. CURTIS. Mr. President, the Legislature of the State of Nebraska has passed Legislative Resolution No. 9, recommending an increase in price supports for agricultural commodities.

I ask unanimous consent that the resolution be printed in the RECORD.

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

LEGISLATIVE RESOLUTION 9

Whereas, the total economy of Nebraska and its future growth is closely related to agricultural income; and

Whereas, the chronic disparity between agricultural income and the income of other segments of our economy has now assumed even greater proportions due to bountiful harvests, increased farm productive efficiency, and the resultant disaster level prices for farm crops; and

Whereas, a measure now pending action in the Senate of the United States which has already been approved by the House of Representatives would if adopted increase federal price supports for wheat and feed grains by 25%; and

Whereas, this measure had the support of all the Nebraska members of the House of Representatives.

Now, therefore, be it resolved by the members of the Eighty-Second Legislature of Nebraska, second session:

1. That the Legislature fully supports the proposed increases in federal price supports for wheat and feed grains.

2. Be it further resolved that copies of this resolution be forwarded to the office of the President, to the Secretary of the U.S.D.A., to the members of the House and Senate Committees for Agriculture and the members of the Nebraska Congressional delegation.

MISALLOCATION IN FEDERAL AID TO EDUCATION

Mr. FULBRIGHT. Mr. President, the Arkansas Business and Economic Review for November 1971, a publication of the University of Arkansas, includes a very interesting article entitled, "The Misallocation in Federal Aid to Education."

The article is by David L. Scott, associate professor of economics, Florida Southern College, and Michael W. Butler of the department of economics, University of Arkansas.

The article points out that in the past two decades one of the main educational problems was a shortage of teachers and there has been considerably Federal assistance to help alleviate that problem. According to the authors, the problem of a teacher shortage has been resolved; indeed there is a growing teacher surplus. However, much of the Federal educational aid is directed toward producing more teachers. The authors feel that it would be much more productive to spend this money for other objectives, "such as programs which attempt to educate illiterate adults, handicapped persons, the economic disadvantaged, and racial minority groups."

Mr. President, the article merits our serious consideration. I ask unanimous consent that it be printed in the RECORD, together with supporting tables and footnotes.

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

THE MISALLOCATION IN FEDERAL AID TO EDUCATION

(By David L. Scott and Michael W. Butler)

Over the past two decades one of the main educational problems was a shortage of teachers. To eliminate this shortage several government aid programs were put into effect. In 1958 President Eisenhower signed into law the National Defense Education Act, the purpose of which was to eliminate the shortage of teachers and scientists. The Higher Education Act of 1956 provided for teacher training programs, established a National Teachers Corps, and provided for graduate teacher training fellowships. The Education Professions Development Act of 1967 established programs to eliminate shortages of adequately trained educational personnel and to attract a greater number of qualified persons into the teaching profession. These acts and other federal aid programs are currently providing over $250,000,000 to train new teachers and to increase the educational attainment level of existing teachers.

The problem of a teacher shortage has been resolved. Today we are faced with a teacher surplus, and this surplus is projected by most sources to increase in the coming years. Table I shows a recent projection by the Office of Education.

TABLE 1.—SUPPLY CONDITIONS FOR TEACHERS IN SECONDARY AND ELEMENTARY SCHOOLS

Year	Supply condition	Number
1968–69	Undersupply	61,000
1969–70	do	2,000
1970–71	Oversupply	20,000
1971–72	do	33,000
1972–73	do	44,000
1975–76	do	72,000
1978–79	do	93,000

Source: U.S. Department of Health, Education, and Welfare, Office of Education, "the Education Profession," 1969–70, p. 78.

While many factors affect the supply of teachers, federal subsidies are among the more significant.[1] Some examples of federal programs that have as their objective an increase in the supply of teachers are listed in Table II.[2]

TABLE II.—OFFICE OF EDUCATION PROGRAMS THAT ATTEMPT TO DIRECTLY INCREASE THE SUPPLY OF TEACHERS

[Millions of dollars]

	1967	1968	1969	[1] 1970	[1] 1971
National Defense Education Act: Title IV, college teacher fellowships	52.6	60.7	70.3	79.0	82.8
Education Professions Development Act:					
Higher education training program	.9	1.9	5.5	2.0	5.2
Preschool, elementary, and secondary training programs	55.4	58.4	42.0	83.0	83.3
Preschool, elementary, and secondary grants to States			2.1	17.6	15.3
Higher Education Act: National Teachers Corps	15.5	16.0	19.4	24.2	29.8
Educational improvement for handicapped: Teacher education and recruitment	21.9	24.2	21.7	27.8	31.0
Total	146.3	161.2	161.0	234.6	247.4

[1] Estimated expenditures.

Source: K. A. Simon and W. V. Grant, U.S. Department of Health, Education, and Welfare, Office of Education, National Center for Educational Statistics, Digest of Educational Statistics 1970, p. 112–113.

Although we continue to spend money to solve a problem of teacher shortages that no longer exists, other problem area programs are inadequately funded. If money is to be spent in the area of education it should be diverted from the subsidization of teachers (which aggravates the problem of a teacher surplus) to programs that might offer greater benefit to our society. There are many areas of education that require additional aid in order to carry out their objectives such as programs which attempt to educate illiterate adults, handicapped persons, the economic disadvantaged and racial minority groups.

In 1969 $303,000 was spent under Title VIII of the Elementary and Secondary Education Act for dropout prevention. The amounts spent for 1970 and 1971, $6.9 million and $10.2 million respectively, although considerably more, were still insufficient.[3] The number of 16–17 year olds not in school in October 1970 was 772,000 or ten percent of this age group. There were over 1,200,000 children ages 7 through 17 not in school during the same time period.[4] Most of these, especially in the higher age groups, are considered dropouts. Furthermore, increased federal aid through the dropout prevention program with the primary objective of retaining these children in school could have benefits other than simply increasing the educational attainment of these children. Crime rates are high among 16–17 year olds not in school, especially in large cities, and welfare roles are crowded by people with low levels of educational attainment.[5] Both crime rates and welfare roles would probably be lowered by having fewer elementary and secondary school dropouts.

The number of illiterates in the United States 14 years of age and over is 1,433,000. The number between 14 and 24 years of age is 97,000 or about .3 percent of this age group. For the 16–24 year age group the illiteracy rate for whites is .2 percent and for Negroes it is .6 percent.[6] Many of these people could be helped by a properly funded program in remedial education. Under Title

Footnotes at end of article.

VI of the Higher Education Act, Office of Education expenditures for Special Programs for the Disadvantaged-Talent Search and Remedial Assistance, for 1970 and 1971 are $1.8 million and $6.2 million respectively.[7] Expenditures for these years on a "per-person" basis amount to about $1.25 in 1970 and $4.33 in 1971, an insignificant amount considering the magnitude of the problem. The Committee on Economic Development recently wrote,

"A general equality in basic student skills and understanding is both possible and mandatory. Nearly everyone can learn to read and write and develop the skills necessary to secure equality of minimal achievement in the basic literacy skills of reading, writing and computation. These skills are essential to every person . . ." [8]

Day care centers provide a means by which the illiteracy rate might be lowered in the long run. Providing pre-school education in day care centers could have a profound effect in raising the educational attainment level of young children.

"The most effective point at which to influence the cumulative process of education is in the early preschool years, when the child has a large capacity for acquiring skills and cultivating expectancies. Only a massive effort to establish both public and private preschool educational programs will provide the preparation in motivation, intellectual capacities, and physical skills essential to success in achieving total basic literacy." [9]

As more and more women begin to work full-time, especially those considered economically disadvantaged, an increasing number of children are being put in preschool day care centers.[10] Both the number of children and the percent of children enrolled in preschool programs have been increasing since 1964. Table III shows the number of children enrolled in such programs during 1969. A further funding for preschool programs could have a significant long run impact in reducing the illiteracy rate and in reducing the dropout rate among disadvantaged youth. "Disadvantaged children who reach school age without preschooling soon fall behind in reading and writing. This results in retardation in all tasks requiring basic literacy" leading to failure and early dropouts.[11] The Headstart Program has had some success in providing early childhood education for disadvantaged preschool children. Since 1964, 3,300,000 children have benefited under this program. Even though the average assistance per child is currently about $1,050 per year, both a greater effort and a larger budget is necessary to solve the problems of the economically disadvantaged child.

TABLE III.—CHILDREN UNDER 6 YEARS OF AGE ENROLLED IN PREKINDERGARTEN PROGRAMS, OCTOBER 1969

Age:	Number of Students
3 years	29,395
4 years	484,880
5 years	79,895

Source: Alvin Renetzky and J. S. Green (eds), *Standard Education Almanac* (Los Angeles: Academic Media Publishers, 1971), p. 64.

Title II of the Economic Opportunity Act of 1964 established the Followthrough Program which is intended "to help children from low income families sustain in the primary grades the educational gains made in Headstart or other similar preschool programs." [12] Followthrough could be a very significant program if it were properly funded but it is estimated that in 1970 the program was able to serve only about 35,000 children, a totally inadequate number.[13]

Despite the magnitude of the problem many programs designed to aid the disadvantaged, handicapped and minority groups are not successful simply because the programs lack money. Table IV illustrates some of the expenditures of the Office of Education for 1970. In comparing the expenditures on these programs to expenditures for teacher training in Table II, it is obvious that there exists a misallocation of Office of Education funds.

TABLE IV—PARTIAL LISTING OF EXPENDITURES, OFFICE OF EDUCATION, 1970

[Millions of dollars]

Programs:	*Expenditures**
Educationally Deprived Children (Indian)	$9.0
Early Childhood Education for Handicapped	3.0
Programs for Disadvantaged—Talent Search	5.0
Adult Basic Education—Special Projects	8.0
Adult Education Courses (American Indian)	1.1
Program for Disadvantaged—Upward Bound	30.0
Dropout Prevention	10.0

*Estimated.

Source: List of Operating Federal Assistance Programs Compiled during the Roth Study, Prepared by the Staff of Representative William V. Roth, Jr. (Washington: U.S. Government Printing Office, 1969).

We think it is necessary that the programs of the Office of Education be reviewed and programs that are no longer serving the public be eliminated. Money needs to be allocated to programs that are attempting to solve current problems, not problems of the past. More specifically, the programs whose purpose it is to increase the supply of teachers should be eliminated and the money used to fund programs which aid disadvantaged and handicapped students. This would accomplish two goals: the elimination or reduction of the projected surplus of teachers and the elevation of the education level of a large number of students, especially the handicapped and disadvantaged.

FOOTNOTES

[1] Some other factors affecting teacher supply are higher salaries, job security, improved working conditions, greater job prestige, *etc.* Both demand and supply are significant in determining the surplus of teachers.

[2] For a complete summary of Office of Education expenditures by legislative program for fiscal years 1960 through 1971 see K. A. Simon and W. V. Grant, U.S. Department of Health, Education, and Welfare, Office of Education, *Digest of Educational Statistics 1970* (Washington: U.S. Government Printing Office, 1971), pp. 112–13.

[3] Estimated amounts.

[4] U.S. Department of Commerce, Bureau of Census, *Current Population Reports—Population Characteristics,* series P–20, no. 222, (Washington, U.S. Government Printing Office, June 28, 1971), p. 12.

[5] In 1969 30.5 percent of total arrests occurred in the age group of 18 years old and under. Juvenile delinquents tend to be concentrated in the inner city area. See the FBI's Uniform Crime Reports—1969, *Crime in the United States* (Washington: U.S. Government Printing Office, 1970), p. 56 and p. 122. Also see the President's Commission on Law Enforcement and Administration of Justice Task Force Report: *Crime and Its Impact—An Assessment* (Washington, D.C.: U.S. Government Printing Office, 1967), pp. 60–72.

[6] U.S. Department of Commerce, Bureau of Census, *Current Population Reports—Population Characteristics,* series P–20, no. 217 (Washington: U.S. Government Printing Office, March 10, 1971), p. 8.

[7] Estimates by the Office of Education.

[8] Committee for Economic Development, *Education for the Urban Disadvantaged—From Preschool to Employment* (New York: Committee for Economic Development, 1971), p. 17.

[9] *Ibid.*

[10] The probability of being poor is about three times as great for a Negro family as it is for a white family, a fact which probably accounts for there being a larger percentage of Negro children age 3 to 4 years enrolled in nursery school than white children of the same age group. See U.S. Department of Commerce, Bureau of the Census, *Current Population Reports—Population Characteristics,* series P–20, no. 215 (Washington: U.S. Government Printing Office, March 5, 1971), p. 2.

[11] CED Report, *loc. cit.*, p. 35.

[12] List of Operating Federal Assistance Programs Compiled during the Roth Study, Prepared by the Staff of Representative William V. Roth, Jr. (Washington: U.S. Government Printing Office, 1969), p. 394.

[13] *Ibid.*, p. 395.

BODY RADIATION PROGRAM

Mr. TAFT. Mr. President, on October 8, 1971, an article in the Washington Post precipitated a controversy relative to the whole body radiation program being undertaken at the University of Cincinnati Medical Center. While I have previously raised procedural questions about the way in which this matter has been pursued by the Health Subcommittee, I have avoided any substantive statements on this issue because of the technical nature of the questions involved. I have, instead, requested that full and complete hearings be undertaken by the Health Subcommittee, in order that all interested parties will have an opportunity to publicly and openly present their positions.

I have now received from the American College of Radiology a copy of their letter to the distinguished Senator from Alaska (Mr. GRAVEL), wherein they set forth the conclusions of their study into the radiation program. Because this is the first professional study that I know of which has been made relative to this program, I ask unanimous consent that it be printed in the RECORD.

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

AMERICAN COLLEGE OF RADIOLOGY,
Washington, D.C., January 3, 1972.

Hon. MIKE GRAVEL,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR GRAVEL: This letter represents our response to your request of us to inquire into the whole-body radiation therapy project being conducted by Dr. Eugene L. Saenger and his colleagues at the University of Cincinnati. We have made our inquiry and our broad conclusions are as follows:

1. In the normal context of a clinical investigation, the project is validly conceived, stated, executed, controlled and followed up. The appropriate scientific and professional committees of the University of Cincinnati have performed their functions during the course of the project.

2. The process of patient selection based upon clinical considerations conforms with good medical practice.

3. The records, publications and patient followup are voluminous and commendable.

4. The procedure used for obtaining patient consent is valid, thorough and consistent with the recommendations of the National Institutes of Health and with the practice of most cancer centers.

5. Should this project come before the Senate or one of its committees in some fashion, we would urge your support for its continuation.

Though physicians do not invariably share with the public the ways in which they reach professional conclusions, we think it appropriate to your inquiry to detail below the way in which we reached these conclusions. Our acceptance of your request was based upon the realization that senators have need of expert, impartial medical and scientific advice in evaluating complex biomedical problems. Should you desire further information, we will again endeavor to be responsive.

THE COMMITTEE

As I noted in my earlier letter to you, the College is seldom called upon to investigate the scientific efforts of any of its members and thus has no standing committee with such a charge. Instead, I asked two leading radiation therapists and a third distinguished physician to undertake the inquiry. They are:

Dr. Henry Kaplan, chairman and professor of radiology at Stanford University Medical School in Palo Alto, California. Dr. Kaplan is internationally known for his pioneering work in several areas of cancer therapy. He has been a member of various cancer study and advisory groups including the Committee of Consultants to Conquer Cancer which recently advised the Senate. His extensive bibliography includes descriptions of his work on Hodgkin's disease involving extensive radiation of patients. Dr. Kaplan is currently chairman of our Commission on Cancer.

Dr. Frank R. Hendrickson, chairman of the department of radiation therapy at Chicago's Presbyterian-St. Luke's Hospital. Dr. Hendrickson is also a faculty member of the University of Illinois College of Medicine and the Rush Medical College as well as a consultant to the Veterans Administration and a member of various national cancer bodies. His bibliography includes reports of his treatment of children afflicted with Ewing's sarcoma with radiation. He is the present chairman of our Commission on Radiation Therapy.

Dr. Samuel Taylor, III, a distinguished internist and oncologist at Presbyterian-St. Luke's Hospital in Chicago. He is the founder of the American College of Physicians cancer program. He is a professor of medicine at Rush. Dr. Taylor's wide experience as a senior investigator in the field of cancer provided us with a view from another discipline. He is a long time expert in chemotherapy of disseminated cancer.

Mr. Otha Linton, director of our Washington Office, provided staff support to the group and coordinated their inquiry with Dr. Saenger and his colleagues.

NATURE OF THE INQUIRY

Drs. Kaplan and Hendrickson and Mr. Linton met with Dr. Saenger and Dr. Charles M. Barrett, director of radiation therapy at the University of Cincinnati, November 29 in Chicago. The discussion covered the background of the project and the purposes, objectives and achievements of the effort to date. Dr. Saenger then provided the committee with published papers and summary materials about the project.

On December 16, Drs. Kaplan, Hendrickson and Taylor met in Cincinnati with Dr. Saenger, other members of his team, two members of the University of Cincinnati human investigation committee, and the chairman of the special university committee which was created by the president to review the project.

Those interviewed were, from the UC Human Research Committee, Dr. Evelyn V. Hess, professor of medicine and Dr. Harvey C. Knowles, Jr., professor of medicine, from the special university committee to review the Saenger project, Dr. Raymond R. Suskind, professor of environmental health and medicine, from the department of radiology and the study team, Drs. Charles M. Barrett, Harry Horwitz, Bernard S. Aron and Edward B. Silberstein, physicists, Drs. I-Wen Chen and James G. Keriakes, and the psychologist, Mrs. Carolyn N. Winget.

Dr. Saenger and everyone at the university were willing to recognize our competence and to cooperate fully with our inquiry. The committee members were extended full cooperation and can conclude that they apprised themselves of the situation to the same extent that they would have needed to do as members of an NIH study section or site review team. Each member of the committee has served in such a capacity.

The committee viewed the project as it was designed—as a clinical investigation of a modality for the care of cancer patients with extensive and incurable disease. Phase one investigations follow basic animal work and always precede randomized clinical trials which may or may not be justified on the basis of the first human applications.

In the opinion of the committee, the team at Cincinnati had abundant bases in the literature for undertaking its study. The participants are fully qualified to undertake the investigation, both from the viewpoint of good patient care and importantly the possibility that new and valuable clinical information could be obtained.

Our committee did not concern itself with the implications which have been raised concerning partial funding of the effort by the Department of Defense. We did note that DOD funds were used only to support the laboratory and psychological studies but not the treatment or the care of the patient. The basic costs were borne by the university and its teaching hospitals.

Because of the prevalence of cancer which has been noted so recently by the Senate, the House of Representatives and the President, those charged with the care of cancer patients have need for every possible bit of information concerning the methods and modalities which we use to treat these patients. In our opinion, this project has the possibility of contributing useful clinical information.

It is worth noting that if others have had access only to the reports made to DOD on its part of the project or if they somehow failed to understand that the fact of extensive followup in no way departed or detracted from fundamental precepts of good patient care, then it follows that they might reach conclusions different from those of our committee.

THE NATURE OF CANCER INVESTIGATIONS AND TREATMENT

In clinical investigations of cancer, we are concerned both with the basic cancer process and with its manifestations in humans and specifically in the patients who present themselves for care. The treatment of an individual represents a series of choices for his physicians which are based upon diagnostic findings and their best judgment. Since humans respond to the assault of cancer and to attempts to treat it as uniquely as they do to most other things, generalizations here have statistical value but limited application to individuals.

There are many forms of cancer. Each type has in common the loss of intracellular control upon which normal cells depend to regulate their growth. The cancers differ in cellular types and in the site of origin of a primary lesion within the body as well as the bodily pathways through which they may spread. Thus, for example, the problem of defining and treating a solid tumor may differ radically from the approach to a form of leukemia.

Physicians have three fundamental modalities which may be used singly or combined to attempt to cure or control cancers. These are extirpative surgery, high energy radiation and chemicals. Hormones also are used to attempt to alter the course of certain cancers involving the endocrine system.

The choice of treatment must be decided for each patient. The decision is based upon the type of cancer, its location, its size, its degree of spread and upon the age and general health of the patient. Ideally, the therapeutic decision is made in a cancer conference involving physicians from the different disciplines appropriate to the problem at hand. By the nature of the disease, any cancer therapy must be regarded as heroic. The cancer patient must accept lesser probabilities of success and more stringent side effects of treatment than usually befall sufferers from other diseases.

Timing is all important in the treatment of most cancers. A small, early cancer may be removed surgically or destroyed with radiation. But if the cancer has begun to spread beyond its original site and beyond the surgical or radiation field, the destruction of the primary lesion will not suffice to save the patient.

Unfortunately, many patients still are diagnosed as having far advanced cancer which must be judged unlikely to respond to any standard curative effort. These patients may have undergone various treatments without success. Or they may have had a "silent" primary cancer which was diagnosed only after it began to spread through the body.

The physician having the care of a patient with advanced cancer has three practical choices. One is to do nothing, allowing the disease to take its course. Another is to attempt palliation, an effort to retard the tumor growth and/or to ease the pain of the patient. The third is to attempt drastic or radical treatments not commonly accepted as reliable or efficacious for patients having a greater chance of success. The third approach carries the long-shot possibility of direct patient gain. The doctor and patient must agree that something of benefit to others may be learned from the effort.

Thus, the effort to improve cancer treatments has been based upon the first application of new or questionable techniques to those patients having nothing to lose by their failure because there is no known treatment available. Often, the effectiveness of the technique must be measured in time of survival, relief of pain, or from certain body measurements, rather than in terms of overt tumor destruction. Efforts must be made to isolate and measure the specific timing, dosages, procedures and restraints which can be observed to alter the course of the disease. When a form of treatment has been shown to have some measurable beneficial effect on far advanced patients it can be considered for general use.

The nature of cancer investigation requires that more than one therapist must undertake a new modality at each stage of its development before it can be accepted for general usage. If an improvement in some tool or resource becomes available, such as the advent of supervoltage radiation sources then previous studies may be repeated with profit.

Both the high energy radiation and the several chemicals now used in cancer therapy have harmful effects upon patients. So does radical surgery. The choice must be made to refrain from curative efforts when the destruction of the tumor would involve unacceptable side effects of a localized or systemic nature. Thus, efforts to control or relieve side effects are equally significant with those to destroy the tumor.

When radiation is used as the tumoricidal agent, the effort is made to limit its effect by tailoring the dose to the suspect area and by using a series of tolerable exposures to destroy the cancer cells without damaging vital organs and adjacent normal tissues. If a cancer is widespread, then a tumoricidal dose of radiation presents problems which, for the most part, remain unsolved. Lesser amounts of radiation have been used in various ways as part of efforts to retard tumor growth, to relieve pain or to alter the pattern of cancer development.

The literature of radiation therapy offers substantial numbers of citations of efforts to use whole or partial body radiation for the palliation of advanced cancers. The conclusion, broadly, must be that the concept has not been sufficiently productive to recommend generally nor so lacking in effect to be abandoned as an approach.

THE CINCINNATI PROJECT

The actual treatment of patients was begun in 1960 by Dr. Saenger and his colleagues as a clinical assessment of the use of sublethal whole body radiation for the palliation of patients with a variety of disseminated cancers. The premise was that the level of radiation selected would have a retardant effect upon the growth of the tumor cells throughout the body and that the patient, for the most part, could tolerate the side effects of systemic radiation.

The second part of the premise was that patients who were closely followed after their cancer treatments could indicate both the physical and psychological reactions to the therapeutic effort over a period of several weeks. This clinical assessment provided a new dimension to previous studies of the use of whole body radiation.

Beginning in 1964, the group began to use the technique of autologous bone marrow transplants as a means of overcoming the marrow depression otherwise inescapable after whole body radiation. The technique after some modification involves the extraction of 300 to 600 cubic centimeters (about a pint or so) of marrow from the posterior iliac crest just before the radiation exposure. The same day, the marrow is filtered and reinjected into the patient. As a clinical procedure, this has succeeded in averting most of the extended radiation syndrome effects previously observed in patients in this series and in other whole body studies.

Efforts to minimize late effects, such as the drop in white cells and platelets and the decrease in red blood cells which are classic to radiation syndromes, began in 1965. This method using autologous bone marrow immediately after radiation therapy, became practical early in 1969.

The concept of whole body radiation as a method of treating cancer is not new with the Cincinnati project. There is voluminous literature reporting controlled animal experiments which are highly useful but not indicative of human responses to human tumors. The literature reporting on human exposures dates back to efforts in 1923. A review of reports to 1942 showed more than 270 patients thus treated with fairly little encouragement. Since these patients in all cases had disseminated tumors and the radiation sources available were in the orthovoltage range, the results were not surprising.

The advent of supervoltage generators and particularly cobalt 60 sources prompted additional studies to assess the effect of higher energy radiation and led to a new round of studies. In 1953, V. P. Collins and R. K. Loeffler called the use of 200 roentgens whole body "a useful addition to the management of advanced cancer."

A current bibliography contains some 86 scientific articles on the subject, excluding Dr. Saenger's contributions. Whole body projects have been undertaken in more than 42 U.S. medical centers. At present, efforts are underway using whole or partial body radiation for the control of leukemia, Hodgkin's disease, polycythemia vera, multiple myeloma, and disseminated cancers of the breast, thyroid and prostate. In very small groups, whole body radiation has been used successfully in curative efforts against Ewing's sarcoma, a bone tumor primarily of children.

The Cincinnati study through the end of 1970 involved a total of 106 patients referred from the Tumor Clinic of the Cincinnati General Hospital. These were patients found by biopsy and clinical examination to have disseminated tumors. They "were chosen because they suffered from advanced and widespread neoplastic disease such that cure could not be anticipated," in Dr. Saenger's words.

All of the patients underwent a 7 to 14 day assessment period to reaffirm the diagnosis and to determine whether their disease and their general health would make the radiation attempt feasible. Some 24 patients were rejected and received no radiation on the basis of their clinical assessment. Some of the 82 patients later treated received sham radiation sessions during the assessment period but none actually were exposed until after a decision by the team which determined the treatment could be beneficial.

The patients had a variety of tumors. The largest group was 25 with cancers originating in the colon and rectum. A second group of 14 had tumors of the bronchus. Fifteen women had disseminated breast cancer. There were 25 patients with miscellaneous tumors. Three children had Ewing's sarcoma and were treated for curative effect. One of the 25 patients with miscellaneous tumors had Ewing's sarcoma with metastases too widespread for a curative effort.

Discussions with the patients and members of their families are standard in any cancer therapy situation and were a part of this project from its beginning. Specific patient consent forms have been used since 1965, when this step was recommended by the National Institutes of Health.

Since 1968, patients selected for the study were interviewed on succeeding days by the internist in the project before being asked to sign a consent form for the therapy. When possible and in all cases of children, the interview included one or more members of the family who also consented to the treatment. Except for the three children with Ewing's sarcoma, all were told that their cancers had been defined as incurable and that the treatment would be attempted in an effort to prolong their lives and possibly to retard or shrink the tumors. They were told that the information gained from the study was hoped to be helpful to other patients. In the last few years they were told that the information might have military as well as clinical siginficance.

The patients were told that there could be some side effects from the radiation exposure and that the team would wish to keep in close touch with them for a period of weeks to study their reactions both to the advances in their disease and to the impact of the radiation. The possible side effects were not described in detail nor emphasized to avoid subjective inducement of the symptoms.

So far as the side effects were concerned, the team reported that 45 percent had no vomiting or nausea after the radiation. Some 24 percent experienced transient vomiting and nausea within three hours and another 17 percent had the same symptoms within 12 hours of exposure. Another 9 percent continued vomiting up to 24 hours. Only five percent had prolonged and severe vomiting and nausea.

It is worth noting that these symptoms are certainly no greater than those experienced by patients treated either by surgery or by any of the systemic drugs now being used clinically on disseminated cancers.

The patients were selected by clinicians at the Cincinnati General Hospital from the population served by that institution solely on the basis of their tumor diagnosis. Since CGH is a institution, none of the patients were private patients. The three children with Ewing's sarcoma were referred by physicians at the affiliated Cincinnati Children's Hospital.

Extensive psychological studies were done on 39 patients. It was possible to establish their IQs. The median on the studied group was 87. The range was from 116 to a low of 63. Some 31 of the treated patients were caucasian and 51 were negro. In both race and IQ the group was representative of the patients served by CGH.

The three children who were treated definitively for Ewing's sarcoma remained alive from one to four years after treatment. From the other 79, for whom only palliation was expected, five others survived as of October of 1971, the longest by more than six years.

The clinical assessment of the effort indicated that (with overlapping percentages) 29 percent felt relief of pain, 30 percent showed a measurable decrease in primary tumor size, 11 percent reported an increase in activity on their own part following treatment and 29 percent reported an increase in "well-being." About 29 percent showed no evidence of improvement or change. Four percent were lost to followup. A group of 10 percent or eight patients died from 20 to 60 days after the whole body exposure.

It is not possible to determine positively that those patients who died within 60 days of the treatment would not have succumbed to their disease within that period, even though the clinical assessment had been that their disease was stable enough to justify their inclusion in the study. However, it was noted from the followup studies that their bone marrow function was subnormal and thus relatable to radiation syndrome.

In terms of survival, the Cincinnati group reported results showing an extension of days over untreated patients in each of the tumor categories. However, results were not markedly superior to the survival results reported by other investigators using various chemicals or other combinations.

The survival figures are clouded by the fact that many of the patients included in the sample had already undergone one or more types of treatment unsuccessfully, often only a short time before their inclusion in the study. Some of the patients in the study also received extensive followup treatment, sometimes involving further radiation of the primary tumor area.

Thus, the patients received a therapeutic regimen which was clinically judged most efficacious for their survival and palliation, however much the added efforts blurred the observation of the effects of the single whole body exposure.

In specific terms of survival, Dr. Saenger was able to draw rough comparisons which indicated the benefit of some treatment over none. He found that his results compared to those gained by other investigators using surgical resections, drugs such as 5-fluorouracial and, for the breast cancer patients, estrogens and androgens.

In Dr. Saenger's words, "The relatively small numbers of patients in these groups (his and the ones compared from the literature) preclude any claim to therapeutic superiority. On the other hand, it seems reasonable to continue therapy for these gravely ill individuals since this method of treatment is less elaborate and with no greater risk than many present forms of chemotherapy."

In this conclusion, the ACR committee would concur. The committee would also observe that the protocols, reviews by appropriate institutional authorities, attention to patient interests and responsibilities and reporting are all consistent with accepted good clinical and scientific practice.

RESPONSES TO SENATOR GRAVEL'S QUESTIONS

Some of the points raised in the questions in your letter of November 10 or covered at least in general above. Some are not. Hence, the questions and specific responses are detailed below:

1. Animal data: Don't experimental animal trials as a rule precede human trials in the testing of new medical therapies and drugs? What animal trials using partial or whole-body irradiation to treat cancer were completed before Dr. Saenger began his human experimentation? Did Dr. Saenger begin his

special "therapy" before or after Defense Department support?

Answer: The literature on radiation biology is substantial with regard to animal trials of whole body radiation for a variety of purposes. One bibliography is appended. Almost always, clinical researchers have had the benefit of animal work to test the toxicity of their materials and to develop general patterns of biological response. However, since inter-species differences never allow the total transfer of animal data to human usage, it is necessary to undertake clinical trials under proper conditions to test any new therapy or agent. It is not necessary for a clinical researcher himself to undertake animal work if he has access to and a good understanding of the literature on the subject. This was the case of Dr. Saenger and his colleagues.

As an example of the application of animal studies to human uses, the use of autologous bone marrow transplants and the basic understanding of the influence of marrow stem cells on mammalian survival after whole body radiation exposure were worked out in animal experiments. The marrow transplants are a most important part of the Cincinnati investigation. The detailed biochemistry not only permits a more complete analysis of the response of these patients but also could point the way to other researchers who are attempting systemic therapy with radiation and with investigative chemicals.

It was a necessary part of the clinical investigation for Dr. Saenger to determine the optimal amount of marrow to extract, the most effective way to handle it and the best timing for its reinjection into the patient. At the beginning of their work, Dr. Saenger and his group extracted the marrow and froze it to retain it for the 18 to 21 days during which blood white and red cell levels are expected to decline. With subsequent patients, they determined that the prompt reinjection of the marrow the same day the radiation was administered averted much of the blood depleting effect of the radiation.

Since Dr. Saenger in this instance applied to the Department of Defense, rather than another funding agency, for the support for the extensive biochemical workups which would provide the "new" element of information from the survey, his preparation preceded the 1960 data at which the actual project was funded by DOD and patient treatment began. As noted, the support for the patient treatment and management was provided by the University of Cincinnati and its hospitals. The DOD funds were applied only to the biochemistry and subsequently the psychological testing which allowed a more complete assessment of the effort.

2. Followup studies: How does Dr. Saenger follow up his own patients to find out if his "treatment" has been helpful or harmful to them? Does he measure the tumors he hoped to reduce, for instance?

Answer: As noted, the followup on these patients is considerably more complete than is possible for most tumor clinics. The followup consisted of clinical observations and diagnostic studies and frequent doctor-patient contacts between both the internists and the radiation therapists on the team with the patients who had been treated. In addition, the team psychologist maintained contact, not only for her tests but also as a further supportive measure.

The data on biochemical responses and upon psychological reactions is valuable but simply too expensive in terms of manpower and laboratory facilities to be possible for every cancer patient, even in the best of cancer centers.

The assessment of results was made by clinical observations of the patient which indicate the elements of well-being and systemic function plus laboratory analyses of blood condition and voiding functions plus x-ray diagnosis to check the size and penetration of solid tumors. In many of the patients, the primary tumor had been excised surgically or treated previously with a prophylactic dose of radiation, leaving management of the metastases as the major clinical concern. It is worth noting that only 4 percent of the 82 patients in the 10-year series were lost to complete followup. A detailed report on these results is cited in the preceding section.

3. Control groups: What control groups does Dr. Saenger have, or has he arranged for at our great cancer research institutes, so that he can determine how his special "treatment" is working?

Answer: The question of specific control groups and randomized samples does not usually arise until after the completion and evaluation of the type of study currently underway by Dr. Saenger. He advises that planning for a more elaborate phase three study began last June on the basis of assessment of the 10-year results of the present effort.

The literature contains sufficient studies of similar patients and comparable sized samples treated by other methods to allow basic comparisons of tumor regression, post-treatment symptoms and survival times after palliation.

Again, it is worth noting that the extent of preparations and followup on each patient and the number of cancer patients at CGH who are suitable for an aggressive palliation study have combined to limit the size of the group under investigation. A phase three study appears feasible at Cincinnati but will require a substantial commitment of staffing and financing from some source other than patient care funds.

4. Private patients: Does Dr. Saenger treat any private cancer patients, or offer consultation on private cases? Does he recommend or use his partial or whole-body radiation "therapy" on paying patients? Does he know any doctor who does?

Answer: Dr. Saenger and his colleagues are full-time faculty members of the University of Cincinnati College of Medicine and have no private practice in the ordinary sense. Their patient care responsibilities are restricted to patients at the city-operated Cincinnati General Hospital and its affiliated institutions. A very few patients were referred to the group from doctors at the Holmes Hospital, a private practice institution affiliated with the university. However, those patients were not charged for the treatment and medical care involved in their participation in the study.

At this point, Dr. Saenger does not use his treatment on "paying patients" because he has none. He does not recommend his technique to other physicians because the investigation is not yet complete and the results are not indicative of immediate application to clinical situations apart from a research effort. Dr. Saenger would encourage other qualified researchers to duplicate his project or to modify his techniques on the basis that results to date are sufficiently promising to warrant further investigation both by his group and by others.

As noted above, some type of partial or whole body radiation is used in more than 42 different U.S. medical centers. A total list of these is not available, but they do include both public institutions like the University of Cincinnati and private ones where most patients are charged for their care and treatment. Thus, it is likely that instances could be found in which patients did pay for this treatment approach. However, the scientific literature does not ordinarily cite the question of patient payment in reporting on clinical research. The ACR committee was not in a position to make any extended inquiry on this point.

5. Trickery: Is there any trickery of the patients involved?

(a) Do the patients really understand the experiment is largely to help the Defense Department prepare for nuclear warfare?

(b) Do you consider the release the patients sign to be sufficient evidence that they understand?

(c) Do the patients understand that the experiment may cause them severe discomfort, such as hours of vomiting?

(d) Do the patients understand that partial or whole-body irradiation may shorten their lives, and if so, by how much?

(e) Do the patients understand whether or not there exists any basis for suggesting that the "treatment" may reduce the size of their tumors or reduce their pain (as Dr. Saenger suggests in the *Washington Post*, Oct. 8, 1971)?

The question of informed consent was investigated extensively by the ACR committee. The University of Cincinnati Committee for Human Investigation was formed in 1965, as it was in most other institutions, and has had a parallel development under the guidelines of the National Institutes of Health. Their consent forms have been gradually modified over the years and the sophistication of their review has increased in a parallel fashion.

It is the opinion of the ACR committee that at the present time and through the years the UC committee has functioned effectively and comparably to similar committees at any of the other leading institutions which conduct cancer research. It is likely that the UC committee has performed its function better than the average group because of the volume of projects generated by the medical faculty and the professional competence of the people involved.

The current consent seeking procedure was reviewed by the ACR committee. The team internist (Dr. Silberstein) interviews patients two times at least 24 hours apart and discusses in extensive detail the procedures that will be undertaken. This is done not only for the patient but also for members of his family, when available. The specific and detailed consent forms are not presented to the patient until the completion of the second interview. The form in use is modified for specificity from the basic ones prepared by the National Institutes of Health.

Except in the case of the three children with Ewing's sarcoma who were treated curatively, the patients knew before being referred to the study team that they had malignant disease for which no curative treatment is possible. They knew that the efforts of the study team were not offered as curative.

Many patients expressed a desire to participate in the study and possibly to help the plight of other cancer patients in the future. The documented psychological studies which were incorporated in the project beginning in 1965 give the study group more than the usual assurance that their explanations and the required forms were understood by the patients and by their families.

The ACR committee felt that the patients were adequately informed about the nature of the proposed therapy and about the consequences. As noted above, the patients were not informed in detail about the side effects of radiation because of the psychological influence of expectation involved in both nausea and vomiting. As mentioned in the project narrative, about half of the patients did not experience unpleasant side effects and most of the others had only transient symptoms. It should also be noted that since most of the patients had undergone previous cancer treatments, often involving radiation or systemic chemicals, they were aware from previous experience of the types of sequellae which might be encountered.

The patients were advised that the project was designed in the hope that the radiation would relieve the pain of their cancer, that it might shrink the size of the primary tumor or retard the development of metastases. No

guarantees of any of those results were offered.

In the ACR committee's view, the assertion in question 5 a. that the experiment "is largely to help the Defense Department prepare for nuclear warfare" is not correct. This is not the primary purpose of the effort and to have advised the patients to that effect would have been misleading.

The patients were not specifically informed that the partial support came from DOD any more than other patients in other studies at Cincinnati or elsewhere are advised of the specific agency support of projects in which they are involved. The Cincinnati patients were told that support came in part from a national agency.

At the time the patients were counseled prior to the request for execution of the informed consent form, they were advised that the possible findings may have more than clinical implications and could be helpful to persons receiving whole body radiation in industrial accidents, military activities or as fallout from a nuclear detonation.

The question of the source of support for a project is not construed by the ACR committee or by most medical investigators as being relevant to the issue of informed consent. In this case, the DOD exercised no control over patient selection or clinical treatment and indeed did not require descriptions of that part of the project been directed primarily toward the assessment of whole body effects of radiation rather than the management of disseminated cancer by radiation, the study group could not have incorporated the autologous marrow transplants which so drastically altered the classic radiation response.

Though this letter has extended to substantial length, it obviously represents a summary of the facts of the Cincinnati study and a precis of the opinions of the College's committee members on that study and on the basic issues of cancer investigation in humans. As we indicated at the beginning of the letter, we would be happy to attempt further discussion of any point on which you may still have concern.

Sincerely,

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President, American College of Radiology.

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PRESENTATIONS

Bone Marrow Dosimetry in a Cobalt 60 Irradiated Tissue Equivalent Human Phantom. Presented by James G. Kereiakes at the Second International Conference on Medical Physics, Boston, Massachusetts, August 11-15, 1969.

Effect of Total and Partial Body Radiation on Cognitive-Intellectual Functioning and Emotional Reactions, C. C. Gleser, C. N. Winget, R. L. Kunkel and E. L. Saenger. Presented at the DASA Medical Coordination Conference "Radiation-Induced Incapacitation/Performance Decrement", Armed Forces Radiobiology Research Institute, Bethesda, Md., 18-19 November 1969.

Cytologic-Biochemical Indicators of Radiation Injury in Man. Presented by E. B. Silberstein at the WHO/IAEA Conference, Paris, June 22-26, 1970.

The Changing Picture of Bone Marrow Granulocyte Reserves in Irradiated Patients. Presented at the Experimental Hematology Society by E. B. Silberstein, November 12-13, 1970, Pittsburgh.

Presentations listed below were made by staff of the Radioisotope Lab. at the Joint Oak Ridge Associated Universities-Defense Atomic Support Agency Information Exchange Program "Radiation Effects on Biological Systems, Oak Ridge, Tenn., March 29-30, 1971.

A Closed System for Marrow Transplantation—E. B. Silberstein.

Chromosome Aberrations as a Dosimeter of Whole Body Irradiation—E. B. Silberstein.

Active Bone Marrow Doses in Whole-Body and Partial Body Exposures, J. G. Kereiakes.

Serum and Urinary Amylase Activities in Irradiated Cancer Patients, E. L. Saenger.

The Relationship of Nausea and Vomiting to Radiation Dose—E. L. Saenger.

In vitro studies of Chromosome aberrations caused by Irradiation—E. B. Silberstein.

Ultraviolet-Absorbing Compounds in Urine of Two Irradiated Cancer Patients as Determined by High-Resolution Column Chromatography—E. L. Saenger.

Active Bone Marrow Dose Related to Hematological Changes in Whole Body and Partial Body Exposures—J. C. Kereiakes, E. B. Silberstein, E. L. Saenger, W. G. Van De Riet and C. Born—submitted for presentation at the Annual Meeting of the Radiological Society of North America in December 1971.

Bone Marrow Dose in Whole and Partial Body Cobalt 60 tissue-equivalent human phantom. C. Born, J. G. Kereiakes, G. K. Gahr and G. H. Simmons, presented at the annual meeting of the AAPM, Houston, Texas, July 1971.

PRESENTATIONS—MADE UNDER DASA CONTRACT—RADIATION EFFECTS IN CANCER PATIENTS

Radiation Casualties—Newer Aspects of Mass Casualty Care. Presented by Eugene L. Saenger and Max L. M. Boone, at the Thirteenth County Medical Societies Conference on Disaster Medical Care, American Medical Association, Chicago, Illinois, November 4, 1962.

Deoxycytidine Levels in the Urine of X-irradiated Rats. Presented by James G. Kereiakes at the Annual Meeting of the Radiation Research Society, May 1964, Miami Beach, Florida.

Urinary Excretion of Amino Acids and Nucleosides by Cancer Patients Following Whole-Body Irradiation, presented by E. L. Saenger at the Annual Meeting of the Radiation Research Society, May 1964 at Miami Beach, Florida.

Autologous Bone Marrow Storage and Infusion in Patients Receiving Whole Body Radiation. Presented by Ben I. Friedman at the American College of Physicians Regional Meeting in Pittsburgh on November 20, 1965.

Effects of Whole and Half-Body Irradiation in Human Beings with Cancer. Presented by Eugene L. Saenger at the Third International Congress of Radiation Research, Cortina d'Ampezzo, Italy, June 26, July 2, 1966.

Hope and Denial in Metastatic Carcinoma—A Preliminary Report. Presented by Dr. Robert L. Kunkel at a Psychosomatic Meeting in New Orleans, 1966.

Effects of Total and Partial Body Therapeutic Irradiation in Man. Presented by Eugene L. Saenger at the Proceedings of the 1st International Symposium on the Biological Interpretation of Dose from Accelerator-Produced Radiation. Held at the Lawrence Radiation Laboratory, Berkeley, California, March 13-16, 1967.

Quantitive Analysis of Deoxycytidine in the Urine of Irradiated Cancer Patients and Rats. Presented by James G. Kereiakes at the DASA Symposium, U.S. Naval Radiological Defense Laboratory, San Francisco, California, April 9-11, 1968.

The Management of the Acute Radiation Syndrome in Man. Presented by Eugene L. Saenger at the DASA Symposium, U.S. Naval Radiological Defense Laboratory, San Francisco, California, April 9-11, 1968.

Bone Marrow Dosimetry in a Cobalt 60 Irradiated Tissue-Equivalent Human Phantom. Presented by James G. Kereiakes at the DASA Medical Coordination Conference, Air Force Weapons Laboratory, Kirkland Air Force Base, New Mexico, May 27-29, 1969.

Radiation-Induced Urinary Excretion of Deoxycytidine by Rats and Humans. Presented by I-Wen Chen at the Annual Meeting of the Radiological Society of North America, Chicago, Illinois, December, 1967.

TECHNICAL REPORTS—SUBMITTED BY UNIVERSITY OF CINCINNATI TO DEFENSE NUCLEAR AGENCY (DNA) FORMERLY DASA

Report period	Title	Contract No.	DASA report No.
February 1960 through October 1961	Metabolic changes in humans following total body radiation	DA-49-146-XZ-029	None assigned.
November 1961 through April 1963	do	DA-49-146-XZ-029	DASA 1422.
May 1963 through February 1964	do	DA-49-146-XZ-029	DASA 1633.
February 1960 through April 1966	do	DA-49-146-XZ-315	DASA 1844.
May 1966 through April 1967	do	DA-49-146-XZ-315	DASA 2179.
May 1967 through April 1968	Radiation effects in man: Manifestations and therapeutic efforts	DA-49-146-XZ-315	DASA 2168.
May 1968 through April 1969	do	DA-49-146-XZ-315	DASA 2428.
May 1969 through April 1970	do	DASA01-69-C-0131	DASA 2599.
May 1970 through April 1971	do	DASA01-69-C-0131	DNA 2751T. DASA report No

EQUAL POLITICAL RIGHTS FOR WOMEN THROUGHOUT THE WORLD

Mr. PROXMIRE. Mr. President, is not the United States committed to the protection of equal political rights for women? The United Nations Convention for the Political Rights of Women guarantees such political rights as the right of women to vote, to hold office, and to exercise all public functions without discrimination. These are rights long guaranteed to women in the United States. Beginning in 1920, with the 18th amendment to the Constitution, women obtained and have exercised the right to vote, and, consequently, to hold office and exercise public functions on an equal basis with men.

Unfortunately, in many parts of the world, women do not have such rights, these rights have become issues. The United States could show its interest and continue its dedication to the cause expressed in the Declaration of Independence—the pursuit of human rights and freedom—not just for Americans, but for all peoples by reaffirming its support of these rights through the ratification of the United Nations Convention of Political Rights for Women.

Mr. President, I call upon the Senate to ratify the United Nations Convention for the Political Rights of Women.

THE PRESIDENT'S SPACE SHUTTLE DECISION

Mr. CURTIS. Mr. President, January 5, 1972, holds the promise of becoming a milestone date in the history of America's space program, because President Nixon announced his decision to proceed with the construction of a space shuttle system.

I believe the space shuttle is deserving of bipartisan support for two main reasons:

First, it will help maintain a high level of technology in our Nation;

Second, it should substantially reduce the costs of our space program.

President Nixon stated the technological importance of the space shuttle in these words:

> The continued pre-eminence of America and American industry in the aerospace field will be an important part of the shuttle's "payload."

On the dollar savings to be obtained through a space shuttle system, the President declared:

> It will revolutionize transportation into near space, by routinizing it. It will take the astronomical costs out of astronautics. In short, it will go a long way toward delivering the rich benefits of practical space utilization and the valuable spinoffs from space efforts into the daily lives of Americans and all people.

When the President made his statement, Dr. James Fletcher, the Adminis-

trator of NASA, was at his side. He, too, made a very cogent statement about the space shuttle, which said in part:

By the end of this decade the nation will have the means of getting men and equipment to and from space routinely, on a moment's notice if necessary, and at a small fraction of today's cost. This will be done within the framework of a useful total space program of science, exploration, and applications at approximately the present overall level of the space budget.

The statements of the President and the NASA Administrator of January 5 make a powerful case for going ahead with the space shuttle. I commend them to the Senate. Accordingly, I ask unanimous consent to place them in the RECORD, along with a White House factsheet entitled "The Space Shuttle."

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

STATEMENT BY THE PRESIDENT

I have decided today that the United States should proceed at once with the development of an entirely new type of space transportation system designed to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s.

This system will center on a space vehicle that can shuttle repeatedly from earth to orbit and back. It will revolutionize transportation into near space, by routinizing it. It will take the astronomical costs out of astronautics. In short, it will go a long way toward delivering the rich benefits of practical space utilization and the valuable spinoffs from space efforts into the daily lives of Americans and all people.

The new year 1972 is a year of conclusion for America's current series of manned flights to the moon. Much is expected from the two remaining Apollo missions—in fact, their scientific results should exceed the return from all the earlier flights together. Thus they will place a fitting capstone on this vastly successful undertaking. But they also bring us to an important decision point—a point of assessing what our space horizons are as Apollo ends, and of determining where we go from here.

In the scientific arena, the past decade of experience has taught us that spacecraft are an irreplaceable tool for learning about our near-earth space environment, the moon, and the planets, besides being an important aid to our studies of the sun and stars. In utilizing space to meet needs on earth, we have seen the tremendous potential of satellites for intercontinental communications and world-wide weather forecasting. We are gaining the capability to use satellites as tools in global monitoring and management of natural resources, in agricultural applications, and in pollution control. We can foresee their use in guiding airliners across the oceans and in bringing televised education to wide areas of the world.

However, all these possibilities, and countless others with direct and dramatic bearing on human betterment, can never be more than fractionally realized so long as every single trip from earth to orbit remains a matter of special effort and staggering expense. This is why commitment to the space shuttle program is the right next step for America to take, in moving out from our present beachhead in the sky to achieve a real working presence in space—because the space shuttle will give us routine access to space by sharply reducing costs in dollars and preparation time.

The new system will differ radically from all existing booster systems, in that most of this new system will be recovered and used again and again—up to 100 times. The resulting economies may bring operating costs down as low as one-tenth of those for present launch vehicles.

The resulting changes in modes of flight and re-entry will make the ride safer and less demanding for the passengers, so that men and women with work to do in space can "commute" aloft, without having to spend years in training for the skills and rigors of old-style space flight. As scientists and technicians are actually able to accompany their instruments into space, limiting boundaries between our manned and unmanned space programs will disappear. Development of new space applications will be able to proceed much faster. Repair or servicing of satellites in space will become possible, as will delivery of valuable payloads from orbit back to earth.

The general reliability and versatility which the shuttle system offers seems likely to establish it quickly as the workhorse of our whole space effort, taking the place of all present launch vehicles except the very smallest and very largest.

NASA and many aerospace companies have carried out extensive design studies for the shuttle. Congress has reviewed and approved this effort. Preparation is now sufficient for us to commence the actual work of construction with full confidence of success. In order to minimize technical and economic risks, the space agency will continue to take a cautious evolutionary approach in the development of this new system. Even so, by moving ahead at this time, we can have the shuttle in manned flight by 1978, and operational a short time later.

It is also significant that this major new national enterprise will engage the best efforts of thousands of highly skilled workers and hundreds of contractor firms over the next several years. The amazing "technology explosion" that has swept this country in the years since we ventured into space should remind us that robust activity in the aerospace industry is healthy for everyone—not just in jobs and income, but in the extension of our capabilities in every direction. The continued pre-eminence of America and American industry in the aerospace field will be an important part of the shuttle's "payload."

Views of the earth from space have shown us how small and fragile our home planet truly is. We are learning the imperatives of universal brotherhood and global ecology—learning to think and act as guardians of one tiny blue and green island in the trackless oceans of the universe. This new program will give more people more access to the liberating perspectives of space, even as it extends our ability to cope with physical challenges of earth and broadens our opportunties or international cooperation in low-cost, multi-purpose space missions.

"We must sail sometimes with the wind and sometimes against it," said Oliver Wendell Holmes, "but we must sail, and not drift, nor lie at anchor." So with man's epic voyage into space—a voyage the United States of America has led and still shall lead.

STATEMENT BY DR. FLETCHER

As indicated in the President's statement, the studies by NASA and the aerospace industry of the space shuttle have now reached the point where the decision can be made to proceed into actual development of the space shuttle vehicle. The decision to proceed, which the President has now approved, is consistent with the plans presented to and approved by the Congress in NASA's FY 1972 budget.

This decision by the President is a historic step in the nation's space program—it will change the nature of what man can do in space. By the end of this decade the nation will have the means of getting men and equipment to and from space routinely, on a moment's notice if necessary, and at a small fraction of today's cost. This will be done within the framework of a useful total space program of science, exploration, and applications at approximately the present overall level of the space budget.

The space shuttle will consist of an airplane-like orbiter, about the size of a DC-9. It will be capable of carrying into orbit and back again to earth useful payloads up to 15 feet in diameter by 60 feet long, and weighing up to 65,000 lbs. Fuel for the orbiter's liquid-hydrogen liquid-oxygen engines will be carried in an external tank that will be jettisoned in orbit.

The orbiter will be launched by an unmanned booster.

The orbiter can operate in space for about a week. The men on board will be able to launch, service, or recover unmanned spacecraft; perform experiments and other useful operations in earth orbit; and farther in the future resupply with men and equipment space modules which themselves have been brought to space by the space shuttle. When each mission has been completed, the space shuttle will return to earth and land on a runway like an airplane.

There are four main reasons why the space shuttle is important and is the right step in manned space flight and the U.S. space program. Very briefly:

First, the shuttle is the only meaningful new manned space program which can be accomplished on a modest budget.

Second, the space shuttle is needed to make space operations less complex and less costly.

Third, the space shuttle is needed to do useful things.

Fourth, the shuttle will encourage greater international participation in space flight.

On the basis of today's decision, NASA will proceed as follows:

This spring we will issue a request for prospective contractors. This summer we will place the space shuttle under contract and development work will start. Between now and about the end of February, NASA and our contractors will focus their study efforts on technical areas where further detailed information is required before the requests for contractor proposals can be issued. These areas include comparisons of pressure-fed liquid and solid rocket motor options for the booster stage.

THE SPACE SHUTTLE

The space shuttle will be the first reusable space vehicle. With savings in launch costs, payload costs, and payload development time, it is expected that the space shuttle will greatly increase the use of space by government agencies and commercial users, and lead to the discovery of new uses for space.

One of the primary reasons for development of the shuttle is to open the use of space for the practical benefit of mankind. It will better enable man to survey the Earth's resources, monitor and predict weather, improve worldwide communications, develop improved vaccines and manufacturing processes, enlarge our knowledge of the Earth and our solar system, and perhaps even harness the sun's energy as a source of pollution-free energy.

DESCRIPTION

It will consist of two stages: a booster and an orbiter. The space shuttle will take off like a rocket, fly in orbit like a spaceship, and land like an airplane.

The orbiter will have a delta-wing and will look very much like a modern airplane. It will be powered by three high-pressure oxygen-hydrogen engines. Propellants for these engines will be carried in an external jettisonable tank.

Two different kinds of boosters are still under consideration. The first uses liquid propellants, pressure-fed engines, and is recoverable. The second uses solid rocket

motors. One of these two booster options will be selected within the next several weeks.

DIMENSIONS

The orbiter will have a large payload, 14 to 15 feet in diameter and 45 to 60 in length. Hatches on top of the compartment will open wide in orbit to facilitate unloading and deployment of large spacecraft.

The overall length of the shuttle is approximately 175 feet, or about 17 stories high. The orbiter is about the size of a DC–9. It measures more than 120 feet in length and has a wing span of 75 feet. Fully fueled and ready for launch, the shuttle will weigh approximately 4.7 million pounds on the launch pad. (The dimensions described above are subject to modification upon completion of contractor studies and analysis of their recommendations.)

OPERATION

The booster and orbiter stages will be joined for launch, with the orbiter in piggyback position. At altitude the two stages will separate and the orbiter's engines will fire to carry it into orbit around the Earth. The multipurpose shuttle will replace almost all present expendable launch vehicles. It will be used to carry into space virtually all of this nation's payloads, scientific and applications, manned and unmanned, civilian and military. It will also accommodate the future needs of commercial users, other government agencies, and foreign governments. In the future it will be used to ferry passengers and freight between Earth and orbiting space laboratories. If necessary, the shuttle will also be available for rescue missions in space.

DURATION

The orbiter will be able to remain in orbit anywhere from a week to a maximum of 30 days, depending on mission requirements. When its mission is completed, its two-man crew will pilot the orbiter back to earth for an airplane type landing at the take-off point or another landing field.

SCHEDULE

The system is expected to take six years to develop. It should be operational by the end of this decade.

FIRST MISSION

There will be many mission requirements waiting for the shuttle when it is built, ranging from deployment of weather and communications satellites to the retrieval of automated spacecraft now in orbit.

NASA CENTERS

The Manned Spacecraft Center in Houston has been designated the lead center with program management responsibility, overall engineering and systems integration, and basic performance requirements for the Shuttle. Houston will also be responsible for the orbiter stage of the Shuttle. The Marshall Space Flight Center has been designated responsibility for the booster stage and the space shuttle main engine. Kennedy Space Center will be responsible for design of launch and recovery facilities. As in the Apollo program all other NASA centers will contribute by providing a great deal of technical know-how and support.

COST

Development costs are estimated at $5.5 billion (in current dollars) over a six-year period; this is about one-fourth the cost of the Apollo program. The refined cost-estimating techniques used in detailed design studies indicate that the job will be completed within the estimated cost figure. But because of the highly complex technical nature of the project, a contingency of 20 percent above the $5.5 billion figure was included for future planning purposes.

Development costs include all research, development, test, and evaluation expenses as well as two flight test vehicles. In addition, development and initial operational facilities will cost about $300 million; each added orbiter $250 million; and each added booster $50 million.

Cost to fly the shuttle will be less than $10 million per flight—far less than any other space vehicle with an equivalent payload capacity.

COST REDUCTION

It is estimated that the reusable space shuttle will reduce the cost per pound of putting a payload into space from between $600 and $700 at present to $100. By comparison, the first U.S. satellite, Explorer I, which weighed only 30 pounds, represented a payload delivery cost of $100,000 per pound. In addition to the direct savings available with the reusable shuttle, significant additional economies will be achieved through reduction of the number and types of launch vehicles needed to support the nation's space effort, and in the cost of the satellites themselves. With the shuttle, automated satellites can be repaired or serviced in space or returned to earth for refurbishment and reuse. Moreover, the size and weight-carrying capacity of the orbiter will free designers from constraints which make design more difficult and costly. This will make it possible to use relatively inexpensive standard laboratory equipment in place of specially constructed, highly miniaturized equipment which is expensive to develop and test. In the final analysis, total savings made possible by the shuttle will depend on its frequency of use.

TIMING OF PROPOSAL REQUEST FOR BUILDING THE VEHICLE

A source Evaluation Board will be selected this month and it is planned to issue requests for proposals in the spring. NASA's present time-table calls for awarding a definite contract for Phase C/D in the summer of this year.

MANNED FLIGHT

The interior of the shuttle will be pressurized so that passengers and crew can travel in shirt-sleeves comfort without spacesuits. No special flight training would be required for passengers, making it possible to send scientists, doctors, artists, photographers into space.

CONGRESSIONAL SUPPORT

The Congress strongly supported and approved the shuttle proposal presented in NASA's budget for Fiscal Year 1972, with the clear understanding that development would proceed at completion of the studies then underway.

CREW

The orbiter will be piloted by a crew of two. The orbiter will carry two passengers in addition to the crew. Provisions can also be made to carry six to twelve more (or even more if required) in special modules carried in the payload bay.

SLOYAN ARTICLES DESCRIBE C–5A FIASCO

Mr. PROXMIRE. Mr. President, two excellent articles by Hearst reporter Patrick Sloyan have pinpointed many of the technical operating problems that have turned the C–5A cargo plane from a projected cargo carrying brute which would give us an immense airlift capability in wartime situations into a punchless taxpayer's folly. The Sloyan articles are a case study of how not to run a procurement system. They demonstrate that the Air Force followed the most cavalier approach in holding the Lockheed Corp. to original technical specifications. For example, Lockheed started production on the C–5A without completing wing stress tests, a move that Air Force Secretary Seamans has characterized as "engineering negligence." The avionics system on the plane continues to perform very badly. There are major defects in the landing gear.

As a result, the taxpayer is paying much more than the original contract called for while the plane cannot meet original specifications with regard to takeoff and landing distance, payload and low level flight as well as a host of other requirements. In fact the Boeing 747, cargo version, currently can carry a heavier payload than the C–5A. The 747 costs $24 million—the C–5A, $61 million and climbing.

Mr. President, I ask unanimous consent that the Sloyan articles be printed in the RECORD. The American people are entitled to know the gigantic dimensions of the white elephant the Defense Department has purchased with their money.

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

C–5A FIASCO—PART 1

(By Patrick J. Sloyan)

WASHINGTON.—The most serious problem of the Air Force C5, the world's most expensive airplane—weak wings that threaten its life span—can be traced in part to the changing whims of national leaders.

Robert C. Seamans, the secretary of the Air Force, can only shake his head at demands his predecessors made on Lockheed, the plane's builder.

The inescapable flaw of fatigue designed into the C5 resulted from the Johnson administration's insistence that the plane be able to take off from a short, rough field.

Today, in the Nixon administration, such a mission for the C5 is viewed as madness. "You're just not going to send a plane as expensive as this into a battlefield area where a machine gunner can knock it down," Seamans said.

The Air Force has terminated testing on airstrip matting and unprepared fields after the C5 suffered engine and body damage.

Seamans now is more concerned about conserving the lifetime of the C5. "You're going to have to give this plane a mother's love," Seamans said.

To avoid undue stresses and strains, the C5 is now operated at only 80 per cent of its original design load. It will be restricted to modern concrete runways. Air Force pilots will be under strict orders to use needed—not full-throttle on take-off. Reverse thrust on landing will also be limited.

The plane's ailerons—the critical maneuvering edges on the wing tips—will be adjusted upward during flight to distribute airflow loads over the wing, thus lessening structural and fatigue strain. But the system will slightly reduce the plane's range.

Besides a continuous check for fatigue cracks in operating planes, Seamans said the Air Force would keep an elaborate record of each individual plane's loads and missions.

Although no decision has been made, the C5 clearly will not fly the 4,200 hours a year as the Boeing 747. At one point, the Air Force planned 1,800 hours a year for the C5 but now even that may be reduced to less than 1,000 hours.

MAJOR UNCERTAINTY

The major uncertainty is lagging fatigue testing, already two years behind schedule. Making fatigue modifications are difficult. The first series of wing modifications made by Lockheed resulted in new fatigue failures. Bonding with adhesives is now being considered for making fatigue patches on the

wing in place of drilling additional wing holes for path fasteners.

But there are no immediate fears that the C5 will get too much flying time. Where the Air Force Military Airlift Command (MAC) hoped to have its C5's operating 75 per cent of the time each month, actual experience has ranged between 10 and 40 per cent a month.

"The main reason for the downtime now is the landing gear," Brig. Gen. Warner Newby said.

Seamans is intimately aware of the landing gear problems.

"I flew in the airplane," Seamans said. "I was sitting right between the pilot and copilot and as we took off I noticed there was a fair amount of buffeting and inquired as to whether this was normal. I was told, "no, the right outboard bogie (a strut holding six of the plane's 28 wheels) was not retracted."

"To retract, it has to turn 90 degrees and then swing up into the fuselage, and it turned 90 degrees all right but there she sat and it wouldn't go down and it wouldn't go up.

"I looked over my shoulder and there was a crew chief and he was looking through the manuals. Well, I figured that was the time for me to walk around in the airplane. They did (finally) turn the wheel around the right way and went back and landed."

The C5 has the world's most complex landing gear. Among other things, it can lower the plane to runway level so that vehicles can be driven aboard without need of a separate ramp.

But MAC's problems with the kneeling system have been serious and persistent, according to a General Accounting Office (GAO) study. It has caused serious damage to the plane, the GAO said.

When the plane takes off, its wheels are spinning. A device was designed to stop the wheels in the air. But it was deactivated because it would inadvertently engage on the ground, damaging, tires.

AFTER TAKE-OFF

Now, after take-off, pilots leave the gear down for one minute to permit the wheels to slow before being retracted. "This is undesirable because it creates drag, decreases the rate of climb and may restrict payload," the GAO said.

Newby has come up with a landing gear retraction system based on old but simple and cheaper electronics to replace the more complex and troubled system now on most planes.

The electonics or avionics in the C5 are comparable only to the costly systems found on the F111 tactical bomber. Most of them were developed just for the C5.

But the "gee whiz" that was first associated with the C5 avionics has now become, in Seamans' words, "that damn computer."

According to Newby, many of the avionics problems are associated with "interface"—the improper melding of various components. Another problem is that several systems depend on a single electronic source—a space-saving design, again to reduce weight for the short take-off capability now scorned and considered too strenuous for the C5.

Newby and the GAO see these problems requiring modifications:

Low reliability for attitude and heading reference units, a key system for bad weather flying. MAC C5's are prohibited from operating with less than a mile visibility and a 500-foot cloud ceiling.

The Air Force has banned the use of the automatic pilot system until problems are fixed. This restricts the plane's ability to hug the ground on low-level missions. There are also problems with the complex radar that feeds the autopilot.

Low reliability on the inertial navigation system that uses computers and gyroscopes to electronically direct the plane. Instead of working as planned for 1,000 hours before malfunctioning, the system has been failing at between 80 and 100 hours.

A system to warn pilots of a potential stall had to be replaced, again because of the "damn" computer.

Low reliability on a inertial navigation system to detect problems in other systems. Called malfunction detection anaysis and recording system, it is listed along with 10 other systems as having the highest failure rate on the C5.

MINOR PROBLEMS

These are some of the major problems with the C5, problems crucial to its safe and effective operation. Some of the minor ones involve such items as the location of the air turbine motors (ATM).

When most jets land, an electrical generator is rolled up and plugged into the plane to keep the electrical system working after the engines are shutdown. But in the C5, two ATM's are deployed to provide hydraulic pressure for the plane.

The Air Force objected to the belly location of the ATM because it was difficult to get to. But Lockheed insisted the location was safe.

When C5 No. 11 was at Palmdale, Calif., on May 25, 1970, a mishap in the hydraulic system sprayed flammable fluid on a hot, operating ATM. "Firefighters were on the scene immediately," said the formal Air Force investigation of the incident.

"But (they) were unable to extinguish or contain the fire in the ATM area, which is inaccessible from the interior of the aircraft and has no direct access from the exterior."

C5 No. 11 is one of two planes that have been lost to fires.

The most recent and most spectacular problem resulted in the grounding of the entire C5 fleet. On Sept. 29, at Altus Air Force Base, a pilot gave a C5 full throttle and then watched an engine tear loose from the wing pylon, somersault and crash on the runway. A brief fire was quickly extinguished.

"It's fatigue problem in the pylon," Newby said. "We need to reinforce the piece that connects the engine to the wing."

The pylon is just one of a series of problems the Air Force general is attempting to deal with in almost King Canute fashion. Newby is seeking to make needed repairs while holding back a rising tide of costs.

There has already been one series of modifications to C5s in service and still in the production line. But another series of modifications—structural, fatigues, landing gear, pylons, avionics—will start in April of 1972.

These spring modifications, particularly those dealing with fatigue fixes, will affect planes now in service—but not those currently under production.

The Air Force will get an additional 30 planes—two a month through April of 1973—that will require the additional fatigue fixes. One reason is that an accurate picture of total fatigue fixes required for the C5 will not be available until—you guessed it—April of 1973.

SUBCONTRACTORS

It is this vise that makes Prof Raymond Bisplinghoff wince. According to Newby, the arrangement has crippled most of the Lockheed subcontractors.

"I've never seen so many subcontractors lose their shirts as they have in this program," Newby said.

"I'd say in about two years the C5 fleet will be operating pretty smooth. But you're just going to have to conserve use of this plane as you would any other valuable resource."

But there is agreement that the C5 will never measure up to its original conception. One measure of the importance of this conclusion comes from Lockheed engineer Robert B. Ormsby.

In an "Air Force" magazine article, Ormsby wrote that in the case of cargo aircraft on "military missions, slight performance advantages may mean the difference between success or failure."

The Air Force has considered a variety of drastic solutions to the C5 dilemma.

"It costs too much money just to kill the program," Seamans said.

According to Newby, there is still "a lot of talk" about halting additional purchases after the 66th plane. "But you just wouldn't save that much money," Newby said.

At one point, the unique contract between Lockheed and the Air Force required the firm to pay costs of modifications to the new plane. But Lockheed, the nation's largest defense contractor, has now become a ward of the Nixon administration.

Earlier this year, the firm's financial crisis resulted in a federally-guaranteed loan to keep Lockheed out of bankruptcy.

Deputy Defense Secretary David Packard also terminated the McNamara total procurement contract. The C5 program was shifted to a cost-plus arrangement under which the Air Force must use taxpayer dollars to repair brand new planes.

A $200 MILLION LOSS

But Packard has insisted that Lockheed suffer a penalty, a $200 million loss on the C5 program. Of course, the Packard penalty can be eliminated by his successor, just as Packard nullified McNamara's penalties. And Packard has now left the Pentagon.

"There is still a need for the airplane," Seamans said.

True enough. Only the C5 can carry the bulky, outsized cargo the Army needs in a pinch—heavy tanks, big helicopters or a tracked vehicle that carries and extends an assault bridge.

But while the CS's interior remains the only one large enough to permit such outsized Army items, Boeing can do just as well in carrying total weight.

Boeing has developed a cargo version of the 747 that will fly 200,000 pounds of payload 3,500 miles. The price tag on the 747F is $24 million, plus additional money for spare parts and equipment. With new engines Boeing is now planning, the plane could carry 250,000 pounds.

Currently, the $61 million C5 is under safety restrictions limiting its payload to 174,000 pounds. Lockheed is optimistic that the payload will be increased to 190,000 to 200,000 for a 3,500-mile mission. The Air Force doesn't share Lockheed's optimism. The Air Force now views the C5 fleet as something to be saved for an emergency. It will not be the muscular brute that would slam down on a strip of grass or handle easily the routing grind of Air Force cargo service.

"We've got to learn from this program," Seamans said firmly.

"Lessons learned" from the C5 program are the subject of an unending series of "who struck John," meetings, Seamans, Lockheed engineer Ormsby, Gen. Newby and anyone connected with the program have found a good slice of their time and the time of their aides consumed at such sessions.

Yet another study is under way—this one costing $3.5 million in taxpayer dollars—to find out what's "really wrong" with the C5 and how to avoid problems in the future.

Bisplinghoff wonders if they will ever learn.

"Okay," Bisplinghoff said, "Lockheed did a lousy job, a very poor job. But so did the Air Force. They both knew about fatigue problems and how to deal with them. They knew about going into production without first testing a plane. They knew all this, but they did it anyway."

NEWBY AGREES

Newby, who dealt with a series of fatigue problems associated with the B52 strategic bomber, agrees. "We can't let this happen again," he said. "We have to force these lessons into our contracting system."

The GAO also has some ideas. This watchdog agency for Congress, as part of their un-

ending investigation of the C5, checked on the way airlines bought the 747 from Boeing.

According to the GAO, the airlines simply refused to accept any plane with operating problems. And, once the plane was accepted, it was flying passengers within 12 to 24 hours.

In contrast, the GAO noted, the Air Force continues to accept planes with major problems. For example, on C5 No. 11, the plane that burned, the Air Force accepted it even though it had pinpointed 647 deficiencies in the plane.

Lockheed officials are quick to note that the Air Force has had similar or even worse problems than the C5 in the past. The trouble is, these past programs were officially "classified."

The nation got a glimpse of what really goes on in major defense programs because the C5 program could never hide the problems behind a "secret" stamp.

Lockheed, along with other firms, is now looking to the 1980s when the military may need yet another new cargo jet—this one carrying a 300,000 pound payload and weighing 1 million pounds or more.

But to hearts, pounding in the Pentagon over planes of the future, Bisplinghoff has a word of caution.

"I think people today just expect a little too much from our technology."

C–5A Fiasco—Part 2

(By Patrick J. Sloyan)

(Critics of the way the Pentagon spends $30 million a year on new weapons have focused on the soaring costs with the Lockheed C5 cargo jet—Fat Albert. After a year's experience with the world's most expensive aircraft even the Air Force is expressing unhappiness with the C5. To get the full story of the project, Patrick J. Sloyan went to the men who should know. This is his account.)

Washington.—Fat Albert is sick, fragile and will require a mother's love for what promises to be an all too short lifetime.

Fat Albert is the Air Force nickname for the Lockheed C5 Galaxy jet, a cargo plane conceived in hyperbole and produced in the face of withering criticisms about its soaring cost.

During more than three years of attacks spearheaded by Sen. William Proxmire, D-Wis., Lockheed, the Air Force and members of the congressional Armed Services Committee have defended the plane as its price tag went from $28 million to $61 million per plane. Supporters of the C5 program, conceding it was costing more than expected, promised that the plane would usher in a new era in airlift for the Military Air Command (MAC).

(Officially, the "A" has been dropped from the designation, because no "B" model is now expected to be built.)

But today, after more than a year of MAC experience with the C5, even the plane's staunchest supporters have begun to sour. Air Force optimism about the C5 has been replaced with hostility, bitterness and frustration.

There are problems today with the plane's landing gear and electronic systems that will take at least two years to repair if the C5 is to be an effective tool for President Richard Nixon's plan to maintain world peace.

But there are problems in the inherent design of the C5 for which there is no certain solution. And, these design deficiencies have resulted in a much narrower role for the plane for far less than the lifetime originally anticipated by the Air Force.

What went wrong?

Some of the answers were found in interviews with Lockheed engineers at Marietta, Ga., where the plane is being made; in Dayton, Ohio, where an Air Force general is attempting to control the program, and in the Pentagon where top defense officials are grim.

"I'd call it engineering negligence," said Robert C. Seamans Jr., the secretary of the Air Force.

"Lockheed did a lousy job, but so did the Air Force," said Raymond L. Bisplinghoff, the scientist the Air Force hired to find out what was wrong.

"You just get tired of it and you want to say, 'a pox on it,'" said Robert B. Ormsby, the Lockheed engineer who has been in the hot seat.

"Frankly, I don't like this job," said Brig. Gen. Warner Newby, the Air Force officer charged with sorting out C5 problems.

In conception, the C5 fulfilled an abiding passion of Robert S. McNamara. Above all, it would be "cost-effective." As secretary of defense, McNamara on Oct. 1, 1965 selected Lockheed to build the world's largest airplane under a unique contract.

Called total package procurement, the contract gave Lockheed responsibility for everything—the plane, engines, electronics, tires, lightbulbs and performance.

For 120 planes, the contract would have provided Lockheed and its subcontractors $3.4 billion. Today, the General Accounting Office says the Air Force will get only 81 planes and these for a total of at least $5 billion.

But as McNamara saw it, the C5's beauty was in saving costs. One C5 would carry more than three C141's, then the biggest Air Force cargo jet—also made by Lockheed.

In 1965, McNamara predicted the military program would result in a commercial counterpart providing transcontinental trips for less than $100 per passenger.

But most important, the C5 would be a rugged assault plane, able to ferry heavy equipment of an Army division to some world troublespot and land near the front lines on a strip of grass.

Building a plane as large as the C5 was considered well within the state-of-the-art of aeronautical engineering. McNamara, the Air Force, Lockheed and other competitors for the C5 contract agreed the plane could be built with proven, established techology.

Lockheed engineers essentially were confronted with the problem that confronted the Wright Brothers: Make a plane strong enough to carry a payload but light enough to fly.

It's the basic problem with almost any airplane," said Bisplinghoff, former dean of engineering at Massachusetts Institute of Technology. He is now deputy director of the National Science Foundation.

"When you're building a plane, the engineers are always struggling to control the weight of the plane so it can have good performance—speed and range. But you've got to have enough strength in the design so you don't have a catastrophic failure—the plane falls apart and crashes."

During competition for the Air Force C5 contract, Lockheed proposed a plane that would carry a 160,000-pound payload for 2,500 nautical miles.

After looking over proposals by Lockheed, Boeing and Douglas, the Air Force decided it wanted a bigger airplane—one able to carry a 265,000 pound payload over 2,700 nautical miles. Lockheed agreed to do the job with a plane with a basic weight of 712,000 pounds instead of the initial version of 690,000 pounds.

Lockheed conducted limited wind tunnel testing on the bigger plane and spotted some "minor" difficulties. Nevertheless, it ordered its subcontractors to start building parts for production of the C5 in December, 1965, only two months after the contract had been awarded.

Utmost speed in production was necessary. Lockheed believed, even though preliminary testing of the plane was not underway. The Air Force contract imposed penalties—up to $11 million—if Lockheed failed to meet delivery deadlines.

The quicker the production, the Air Force believed, the cheaper the total costs.

The nightmare for Lockheed engineers started in 1966, when more detailed wind tunnel tests were "full of surprises." The tests showed eight major design changes were required, changes in everything from nose to tail, from top to bottom.

Subcontractors were thrown into turmoil. They were told to junk work they had done and start building new designs.

Even with the new designs, there were serious problems. Too much drag from the bulky wing design was sure to degrade the C5's ability to operate from short, unprepared battlefield airstrips. The plane was too heavy.

Boeing had encountered the same problems. When it lost out on the C5 competition, Boeing modified its plans and came up with the 747 commercial passenger plane. When Boeing reached the overweight problem, its single most important solution was to require its subcontractor to build more powerful engines.

"Lockheed could have done the same thing," said Gen. Newby, in hindsight. "The Air Force told them to go ahead and get bigger engines—but that Lockheed was responsible and would have to absorb the price increase for the engines.

"But they didn't do it that way."

Ormsby, vice president of engineering at Marietta, has a different version. Ormsby said the Air Force would simply not relax the requirements for C5 performance, particularly the rough field performance.

The C5 wings are not swept back to the degree seen on most commercial jetliners. This limited sweep design provides more lift when the C5 is attempting to get airborne from a short runway. Using 10,000-foot runways, swept-wing commercial jets have ample time to build sufficient speed to become airborne.

Ormsby said Lockheed's solution to the weight problem was to emphasize a high-stress design. "If I had to go off to a desert island and build a wing, I'd do it with a high stress design."

Basically, the high-stress approach is to design the wing understrength and then repair as it fails. "This way, you get maximum strength with repairs and minimum weight," Ormsby said.

Bisplinghoff agrees.

"It is an old philosophy," Bisplinghoff said. "You go ahead and design understrength. But the important thing is, you find your failures in a test model and then correct them before you go into production. But Lockheed started production without testing.

"They did it the insane way at Lockheed. Insane."

Lockheed began carving 4,500 pounds of metal out of the C5 wing. More accurately, removing weight from wing parts scattered around in bits and pieces.

Exotic techniques were employed. For example, some wing sections were bathed in chemicals to eat away the exact amount of unwanted metal. Besides chemical milling of parts already produced, lighter metals and beryllium alloys were employed.

The weight reduction effort started in 1967. Lockheed continued production without waiting for test results of the high-stress design.

"That's what I call engineering negligence," fumes Seamans, the Air Force civilian chief who has a distinguished engineering background.

"Lockheed didn't test when they knew they were putting the plane right on the knife's edge."

More than two years later—in July of 1969—a test wing broke at the Marietta

plant. This was a static test. Weights were added until the wing broke. The test relates to how much weight the plane can lift off the ground.

The C5 wing is designed so that the plane can lift 265,000 pounds with a margin of safety: the wing should not break at 150 per cent of the design load. But in the test, the wing failed at 125 per cent of design load—a sharp reduction in the safety margin. There was a second static failure last September, this time at 126 per cent of design.

But there were even more chilling results from fatigue testing. In fatigue test machines are used to bend, twist and turn plane wings to simulate landings, takeoffs, rough flights and other activities the C5 would encounter in a lifetime.

In this case, Lockheed had guaranteed the Air Force a C5 with a lifetime flying expectancy of 30,000 hours.

But fatigue cracks began appearing both in planes being flight tested and in wings set up for ground testing at as few as 2,000 hours.

Continued testing showed a series of fatigue failures throughout the wing under simulated flying of only 8,000 hours.

"You can do things, such as limiting loads, to deal with the structural problems related to the static tests," said Seamans. "But you can't get around fatigue problems. You have to fix fatigue problems and you always want to make this modification before you get the plane in service or, at least, before your fleet approaches the flying hours associated with the cracks."

But between the time the fatigue problems were first spotted and today, the Air Force has accepted almost 50 C5's that will need modifications for fatigue problems.

Just how many hours of operations the C5 will achieve is subject to dispute between Lockheed and the Air Force.

"We can get 30,000 hours of life if it is worth the money to the Air Force to make the needed modifications," said Lockheed's Ormsby. "There's no doubt about it. The C5 has an unusually high rate of fatigue failures."

But in Dayton, General Newby takes a different view.

"I'm certain we can get 15,000 hours of life," Newby said. "Most of the fatigue failures we have seen so far have been small ones—fatigue hotspots in the wing. But we don't know whether we'll get major fatigue failures as we continue testing.

"If all hell starts popping loose as testing goes on, well, we'll have big problems. But I'd say chances are 50–50 it could get better or worse."

Bisplinghoff, the expert the Air Force called on to resolve uncertainties, is not as optimistic as Newby.

"They'll never reach the design life of 30,000 hours without major difficulties," Bisplinghoff said. "When you talk about possible fatigue fixes, you must consider the economics of the problem. How much can you afford?

"I looked at the possibility of a new wing, but that's just too much money. The only reason our committee did not tell the Air Force to get a new wing is that I think the C5 wing can suffer a fatigue failure and still be able to land safely.

"In other words, the way the wing is built, you could have a serious fatigue failure but the wing wouldn't fall off like it does on other planes."

When planes such as the C5 start having problems, the first thing emphasized by the Air Force, Lockheed and anyone else associated with the program is that all new planes have problems.

"Sure, all new planes have problems," said Seamans. "But the C5 problems are unusual—not usual."

For example, buyers of the Boeing 747 were also guaranteed a 30,000 hour lifetime. After 60,000 hours of fatigue testing, Boeing has pinpointed three fatigue failures that will require modifications at 4,500 hours, 18,000 hours and 23,000 hours respectively.

According to Pan American World Airways, which put 25 of the Boeing Jumbo jets into service in one year, the company eventually plans a 100,000 hour lifetime for the 747, including new and more powerful engines.

Currently, Pan Am is flying each 747 about 4,200 hours a year. "We've had a lot less problems with the 747 than we did with the other Boeing jets—the 707 and 727," a Pan Am official said.

SUPPORT GROWS FOR QUALIFIED AMNESTY

Mr. TAFT. Mr. President, since December 14 when I introduced S. 3011, a bill to provide qualified amnesty for draft evaders, I have been heartened by the support which has been generated in behalf of this measure.

A Gallup poll, commissioned by Newsweek, and published in its January 17 issue, reveals that while only 7 percent of Americans favor unqualified amnesty, and only 22 percent oppose amnesty without qualification, 63 percent of all Americans favor amnesty with a service requirement. This poll indicates that the overwhelming majority of Americans believe as I do, that draft resisters should be given a chance to be reunited with American society, if they are willing to work for their country and thereby pay the debt which they owe to America.

In large part this degree of public support may reflect the widespread editorial support which this measure has received in the Nation's press, radio, and television.

I ask unanimous consent that there be printed in the RECORD certain representative editorials and columns supporting this proposal.

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

A. EDITORIALS

[From the Boston Globe, Dec. 15, 1971]

AMNESTY FOR DRAFT EVADERS?

Ohio's Senator ROBERT TAFT JR., son of the late "Mr. Republican," has done something not even the antiwar Democrats in Congress have dared to do. He has filed legislation offering amnesty for draft evaders who are now in exile or in prison.

To be sure, there are conditions attached. Draft evaders who have fled this country could come back if they agree to a 3-year tour of duty in the military or in some other designated Federal agency such as the Public Health Sevice. Those in prison could deduct up to 2 years of their time there from this 3-year obligation.

Senator TAFT estimates this would apply to 500 now in prison and 70,000 youths now in Canada or in exile elsewhere because they oppose the war in Vietnam.

The proposal, we think deserves praise, and should have been made long before this. But we are not at all sure that such drastic conditions should be attached. Those who have gone to prison, or who have fled their native land, have already paid a price in lost years of their lives and in emotional grief that is impossible to measure by any ordinary standards.

The fact is that this war from which they fled their country, or in which they refused to serve, is by now acknowledged by most Americans to have been a massive blunder, one of the worst in our history. And it was legally sanctioned neither by any international commitment nor by the only body authorized by the Constitution to declare war—the Congress.

But on the other hand, it will be pointed out that many other men "faced up to their responsibilities" under the draft law, and some 55,000 of them died because they did. This is true, and we do not and should not in the slightest degree denigrate them.

Yet perhaps the time has again come, as it did for the country of Abraham Lincoln, to bind up the Nation's wounds, with malice toward none and with charity for all.

[From the Ripon Forum, Dec. 15, 1971]

SENATOR ROBERT TAFT (II)

In introducing the first Senate bill providing amnesty for draft resisters now in exile or prison, Robert Taft Jr. took a courageous step from the shadowy retreats in which Senators have long evaded the moral responsibilities of Vietnam. It is a step in the tradition of the greatest of Republicans, Abraham Lincoln, who gave amnesty to Southern soldiers, and in the spirit of the man once known as Mr. Republican himself, Robert Taft, Sr., who almost alone among Americans attacked the vindictive justice of the Nuremburg trials. It is a step prepared by a bold Republican contemporary, Charles Goodell, who introduced the first bill to set a deadline to end the war and who interceded for the Berrigan brothers in prison. It is a step which sets a Republican standard to which Democratic doves are now likely to flock but from which even John Lindsay, with all his Republican training, has to date recoiled. And for Robert Taft Jr., it is a first step to fulfill a heritage of greatness from which his name will never allow him amnesty.

[From the Madison (Wis.) Capital Times, Dec., 16, 1971]

SENATOR TAFT'S COURAGEOUS STAND

Senator Robert Taft Jr., Republican of Ohio, has taken a courageous position in introducing legislation offering amnesty to draft resisters in federal prison or who have fled the country to avoid service in the Vietnam war.

It is a position few men in Congress have dared to expouse, with the notable exception of Sen. George McGovern (D-S.D.), Rep. Edward Koch (D-N.Y.) and a few others.

Taft's bill specifically excludes military deserters, which we think is a shortsighted. Taft said military deserters must be dealt with by the military authorities in order to avoid destroying "morale and discipline in the armed forces."

Even though we think there are solid grounds for extending amnesty to deserters, we welcome Taft's legislation and hope his congressional colleagues will display the same brand of courage and humanitarianism.

Draft resisters under Taft's bill would be allowed a year after enactment to volunteer for alternate service, either as noncombatants in the military or in some civilian Federal service such as a hospital.

Taft should join forces with Sen. McGovern who has advocated a general amnesty for all resisters and exiles without a requirement for alternate service.

The agonizing dimensions of the problem are illustrated by numbers of persons involved. A total of 500 young men are in prison; an estimated 70,000 are abroad as exiles, and military deserters numbered an estimated 89,000 last year.

[From the Cleveland (Ohio) Press, Dec. 17, 1971]

TAFT'S AMNESTY BILL

Sen. Robert Taft's proposal to grant amnesty to draft resisters is sure to kick up a storm.

But the problem must be faced. What is this nation to do about the estimated 70,000

men who fled the country rather than serve in the Vietnam War?

Under Taft's bill draft resisters would have one year in which to volunteer for service in the military as noncombatants or in some federal service such as veterans' hospitals. This is a reasonable and compassionate approach to the problem.

Amnesty would be granted to those now in prison, who number about 500, and those who left the country. Those who deserted would be dealt with by the military.

Sen. William Saxbe already has reacted angrily to Taft's amnesty proposal. Saxbe's characterization of draft resisters as "dogs" is intemperate and unworthy of that senator.

This country cannot write off 70,000 young men as cowards and deny them repatriation. The Vietnam War has been the most unpopular conflict in this country's history. The young men who refused to fight in what they considered an immoral war faced a crisis in conscience.

The Taft bill does not offer a free ride to draft resisters. They would still be obligated to give three years of some kind of service to their country.

Taft asks whether this country is "wise, strong and charitable" enough to offer draft resisters a chance to be "reunified with our American society." This country should be.

[From the Chicago (Ill.) Sun-Times, Dec. 18, 1971]

THE MATTER OF AMNESTY

Few Americans fully understand the war in Southeast Asia, yet an increasing number recognize its futility and long for an abrupt end to the wasting of lives and to the moral dissolution with which the war is equated. Therefore, it is of paramount importance that the government consider with reason and compassion the anti-war positions taken by young men who chose exile or prison rather than war-time military service.

Sen. George McGovern, the liberal Democrat from South Dakota, has for some time advocated amnesty for draft resisters. Now, Sen. Robert Taft Jr., a conservative Republican from Ohio, has shown the idea to be one with bipartisan support. Taft has introduced legislation which would grant amnesty to 500 draft objectors now in prison and to the estimated 70,000 in exile. Taft's proposal differs from McGovern's in that it would require those granted amnesty to volunteer for a form of alternative service.

A wider choice of alternatives than is now available would be of value, were Taft's plan to be accepted, and there remains the matter of what to do with men who entered service, then deserted for anti-war reasons. However, it is the question of amnesty itself, not its mechanics, that is at issue. Most of America's troops are expected home from Vietnam by next fall, and it is anticipated that the prisoners of war will be freed. Because it then will be necessary to deal in good conscience with those who refused to serve, the matter must be confronted now.

Not all draft resisters are good guys. Many merely sought safe haven. But these are men who face their own private hells and it is not at their level that men who resisted the draft out of patriotism should be judged. The United States must show itself strong enough and compassionate enough to embrace those who defy it honestly and with love of country.

[From WKYC radio, Cleveland, Ohio, Dec. 19, 20, 1971]

TAFT SUGGESTION

Ohio's two U.S. Senators seem to have divergent views of that most elusive of human qualities . . . forgiveness.

Senator Robert Taft says he thinks draft dodgers and deserters who have gone to Canada, Sweden and other places because of disagreement with the Viet Nam war, or militarism in general, should be granted amnesty by the U.S. government, provided they are willing to work at some public service job for three years.

Senator William Saxbe, however, says no . . . no amnesty . . . no forgiveness. They made their bed, let them lie in it.

We think Senator Taft shows us a reasonable way out of a dilemma. These young men should be allowed to return to their own country if they want, but they shouldn't get a free ride. They didn't fulfill an obligation others accepted, despite their personal feelings. Somewhere along the line more young people have to find a heart in America. We think Senator Taft's suggestion shows we can have one without being labeled softies. Senator Saxbe's, on the other hand, only helps to perpetuate blind hatred of one man for another no matter what the reason. Come to think of it, hatred is one of the ingredients necessary to start a war in the first place.

[From the Lorain (Ohio) Journal, Dec. 21, 1971]

TAFT'S WAR AMNESTY BILL HAILED

Sen. Robert Taft Jr. has introduced a bill to grant amnesty to U.S. draft dodgers—if they serve their time in the military or in some acceptable federal service.

It is to the credit of the Ohio Senator that he has thus demonstrated his humanitarianism in the face of his consistent approval of President Nixon's war policy. The door should be opened to the young Americans who avoided war services, due in most cases to the dictates of their conscience.

Taft's legislation takes the sensible approach, this being to allow the young men to work their way back to good standing as Americans.

This is not written to sanction draft dodging. We still believe that a person should be ready to serve his country when called. But we understand the reluctance of some to serve in a war as futile and unjustified as the conflict in Vietnam. They should not be forever barred from their homeland.

Give the young Americans a chance to come home if they are willing to pay the price, even though it is less than the price paid by those who served in Vietnam.

[From CBS radio network]

SPECTRUM

(By John K. Jessup)

This is Spectrum on the CBS Radio Network. I am John K. Jessup with my personal viewpoint on Senator Taft and our boys in Canada. After this message.

Robert Taft of Ohio is only a freshman Senator, but his name stands for humane and responsible conservatism in American politics. He's added lustre to that tradition, in my opinion, with a bill he introduced into the Senate last week. It would extend amnesty to some 70,000 draft dodgers in Canada, Sweden and elsewhere, plus 500 or so in American jails, provided they serve three years in non-combatant military or other federal jobs such as the public health service. The Taft bill is less all-forgiving than the free amnesty for draft dodgers advocated by Senator McGovern. But it is a lot more imaginative than the flat and unqualified "No" which a question about amnesty recently drew from President Nixon. The question is one that will loom larger as we get into the Presidential race.

Some estimates put the number of draft exiles as high as a hundred thousand. At mid-1970 they were crossing the Canadian border at the rate of 40 or 50 a day, though the flow has dwindled with the draft calls. Some 20,000 exiles have already become landed immigrants, the first step to a job and Canadian citizenship. But jobs aren't too plentiful in Canada these days, and a lot of the younger exiles survive only with the diminishing help of aid centers. Many wander from one hippie-type commune to another, or in and out of that outpost of educational chaos called Rochdale College in Toronto. If he were to inspect some of these sanctuaries for exiles, even George McGovern might think twice about welcoming all of them back.

But the Taft bill is more discriminating. It would select out the most deserving and penitent by imposing a stiff three-year passage to forgiveness. It would not apply to deserters from the military. It would not appeal to many willing emigres who have become super-Canadians. It has already been pronounced unacceptable by some of the more stiff-necked exiles who think they deserve repatriation as heroes on the grounds that the government was wrong about Vietnam. But it is a very fair offer to those thousands of draft resisters who, in Robert Taft's words, held deep and conscientious objections to the war, or who were "victims of bad judgment or poor advice," and who want very much to come home. The Senator deserves applause for his well-conceived treatment of a tough problem and his bill deserves to pass. This is John K. Jessup with Spectrum.

[From the Akron (Ohio) Beacon Journal, Dec. 24, 1971]

TAFT'S "AMNESTY" PROPOSAL MERITS SERIOUS THOUGHT

Despite the instant angry opposition of Sen. Saxbe and many others, Sen. Taft's "amnesty plan" for draft law violators strikes us as a good idea.

His bill doesn't really call for outright amnesty in the scot-free forgive-and-forget sense, which would doubtless be offensive to huge numbers of Americans thinking of the millions who have served and the 55,000-plus who have died in U.S. service in the Vietnamese war.

It offers, instead, a presidential pardon and restoration of citizenship rights in return for volunteer acceptance of a kind of "penance duty": three years of service in the armed forces or alternate services in VISTA, a Veterans Administration or Public Health Service hospital, or such other federal service as the government directs—at the lowest pay rate.

For those serving sentences for draft evasion or failure to register, the bill would allow prison time up to two years to "count" as a sort of part-payment of service. Similarly, it would offset up to two years of prison time for those who have completed such sentences or have been paroled from them. Thus those with two years or more of imprisonment could "get right" and win back their citizenship rights with one year of "penance" service.

Sen. Taft says more than 500 draft resisters are now in federal prisons, and that nearly 70,000 young Americans have exiled themselves rather than serve in the Vietnam war.

Sen. Saxbe calls them "a bunch of dogs," and says he's "not ready to forgive and forget that these evaders have skipped service while thousands of others served and died." And his view is echoed in much of the flood of mail and wires and phone calls pouring into Taft's office these days.

While we have the greatest respect possible for the sacrifices of those who have served and those who have died, we can't see that lifelong condemnation of those who refused to go does any honor to those who went.

Nor can we agree with a blanket characterization of all draft resisters as "dogs."

From the beginning this war has riven the country, the split widening and deepening as the war ground on. Few Americans would now argue that it was not in some sense a mistake from the outset. This in no way diminishes the deeds of those who served; there is honor in serving your country,

whether your country's policy is right or wrong.

But it has been almost classically a case where opinions can honestly differ, and have differed, violently. And it has been possible for some young men refusing service to believe honestly that their example served their country better than their armed service would have done.

It would be foolish to say that all or even most of those who have refused service have done so with high moral purpose. No doubt some have been shirkers moved by no more than cowardice. But a hesitation to mass-condemn comes with the thought that no one but God can look into a man's mind and say why he did what he did. Often even the man himself can't be sure.

Among those thousands now cut away from American society by this most divisive of America's wars are some we need—young men of high principle and the kind of courage it takes to act on conviction even when they know the action will condemn them forever in the eyes of many.

There is now no mechanism for bringing them back—they are outcasts. Taft's idea would provide a way for them to "atone," if that is how you choose to view it, or, in any case, to prove their willingness to serve their country in ways that will accord with their consciences.

The political prospects for Taft's bill look poor. He has found only one fellow senator—Democrat Frank Moss of Utah—willing to go along with him on it, and Taft's staff says most of the reaction coming in is hostile.

That the proposal came from Taft has startled most who know him; he is known as a moderate conservative, a strong administration supporter, and anything but a "bleeding heart." Some have speculated that he is only floating a youth-oriented administration balloon to test public sentiment—which Taft firmly denies and of which there is no traceable evidence. If this is so, the instant storm of protest may scuttle the bill quickly.

Nevertheless, we think there is merit in Taft's idea or something like it.

[From the Tucson (Ariz.) Daily Star, Dec. 26, 1971]

PLEA FOR AMNESTY

The Vietnam war has spawned a mountain of personal tragedies, so many that not in time and space can they be counted.

Among the tragedies has been the defection of American youth, their resistance to being drafted to fight in an undeclared, unpopular war, and the resulting split in many families. The division has hit all levels, the wealthy as well as the poor and the middle class. Fathers and mothers have been hurt as they have watched their sons slip across the border into Canada or go to other countries.

For fathers who marched off to fight in World War II, the sight of sons seemingly turning their backs on their flag has been very difficult. Some fathers will never understand. Others are beginning to understand that their sons, in many cases, did not turn their backs on their country, but instead in their own way tried to resist the unjustness of the war in Vietnam. There have been, of course, some disaffecting youth who could be classed only as draft evaders or military deserters. But there have been evaders and deserters in every war.

The majority of the 500 young men in prison and the estimated 70,000 abroad classify not as evaders or deserters, but as draft resisters—conscionable young men who left their families and jeopardized their careers to actively protest the war in Southeast Asia.

It is time, now that the facts of Vietnam have been brought before the public, that a plea for amnesty for these young men be heard in the land. And it has been heard, not by radical or liberal leaders, but from a member of a long-time conservative Republican line.

Sen. Robert Taft Jr. of Ohio has introduced legislation offering amnesty to draft resisters in federal prisons or who are now in foreign countries.

"The time has come," said Senator Taft, "for us to turn our attention to the question of draft resisters and whether we, as a nation, are so wise, strong and charitable as to offer them an opportunity to be reunified with our American society."

Senator Taft's bill may not be the exact piece of legislation needed as it is written. But it moves toward healing America's wounds.

There will be those who will bitterly oppose any form of amnesty. They will point to the nearly 50,000 Americans who have died on the battlefields of Southeast Asia. Amnesty will not dishonor the dead nor make any mockery of sacrifices of the living. It will allow restoration of honor and opportunity of useful service to America.

[From the Battle Creek (Mich.) Enquirer and News, Dec. 27, 1971]

REPATRIATE CONSCIENCE

There are now, because of conscientious objections to the Indochina war, many young Americans living apart from their own society. Some 70,000 of them are living abroad, about 500 have chosen prison over service in a military they believe to be fighting an immoral war, and many more await indictment and trial for refusing induction.

As the war winds down, whether in fact or in tactics, and during this season of new beginnings when forgiveness seems easier to extend, the question of amnesty is one we feel must be raised. The question is, in the words of Ohio Senator Robert Taft Jr., "whether we are so wise, strong and charitable as to offer them an opportunity to be reunified with our American society."

Legislation has been introduced by Mr. Taft and others to grant amnesty to draft resistors, and we feel these bills deserve the most serious consideration. Under the Taft proposal, those abroad or having refused induction but not yet tried would be granted immunity from prosecution. Those already in prison would be released. In return the resistors would perform voluntary service in civilian federal agencies or noncombatant military duties. Mr. Taft's bill excludes deserters, who now number some 90,000, on the basis that they must be dealt with by military authorities.

The question of amnesty is, of course, a controversial one. Of the Democratic presidential candidates, only South Dakota Senator George McGovern has endorsed the concept without qualification. The others have remained silent for the most part. President Nixon is on record against amnesty. Mr. Taft, one of the staunchest of the staunch conservatives, is to be commended for his political courage in having raised the question. For it is a problem which can not forever be ignored. A large group of political exiles will be a growing embarrassment to the nation as the war comes to an end.

There is ample precedent in American history for the extension of amnesty to war resistors. Even those who fought against the Union in the Civil War were granted such on a limited basis. And the nation has given sanctuary to exiles of other nations who fled to avoid military service they did not believe in.

As Congress considers the proposals before it, specifies—such as alternative service and its length and whether amnesty will be granted also to soldiers who deserted out of moral objections to the war—can be debated. What is important is for that debate to begin, for the United States to find some way to bring back into American society those the war drove out.

[From the Chicago (Ill.) Tribune, Dec. 29, 1971]

WHAT ABOUT THE DESERTERS?

In the last several years, about 70,000 draft dodgers and military deserters have fled this country for Canada and Western Europe to avoid serving in the Viet Nam war. With the war now winding down, pressure is mounting for a general amnesty for these fugitives and an official policy of forgiveness for their crimes.

The rationale for this is that the war was immoral and unjust, or at least unpopular, and that therefore the continued separation of these young men from their families and homeland is also unjust. A few even say that it was the federal government which acted criminally.

The response to the amnesty proposal has been varied. President Nixon reacted with a predictable "No." The military has prepared cases against many of these fugitives and is ready to ask for stiff jail sentences for those who are convicted.

Sen. Robert Taft [R., Ohio] has proposed an amnesty which permits these men to return home but requires them to serve three years in the military or in some other form of government service. Sen. George McGovern, predictably, has called for amnesty with no questions asked for draft evaders, and leniency for those who fled in uniform. Charles O. Porter, a former congressman from Oregon, has formed an organization called Amnesty Now. The name is self-explanatory.

Mr. Nixon's flat rejection of the concept is normally sound, we think. But to prosecute every draft dodger and deserter according to existing laws would almost certainly be impossible, and the punishment of lifelong exile may be disproportionate to the crime. On the other hand, Mr. McGovern is going too far.

What he overlooks is that, whatever they thought of the war, hundreds of thousands of young Americans fulfilled their obligations to their country and accepted military service, more than 40,000 of them losing their lives as a consequence. Other thousands sought the status of conscientious objectors and served as medics or otherwise gave of their time. Still others, while disagreeing with the war and this nation's laws, were willing to pay the price of that disagreement by going to jail.

Among those who fled were acknowledged cowards and those who would shirk their responsibilities whatever the circumstances. But even if they were all motivated by philosophical and moral objections, they cannot be let off with nothing more than the inconvenience of living in Canada for two or three years. It would be a gross injustice to all those who stayed and did their duty or served their time.

Mr. McGovern seeks historical precedent for his case by recalling that Abraham Lincoln granted amnesty after the Civil War "even to those who fought against the Union cause." True, many Confederate soldiers were freed to return to their homes. But this was a dispensation to a defeated enemy in the tradition of honorable war. Mr. Lincoln did pardon deserters, but only on the condition that they return to their units within 60 days and serve for the remainder of their enlistment plus a period of time equal to their desertion.

If we are to have amnesty, Mr. Taft's proposal is the only one acceptable. It provides punishment for those who acted out of cowardice and irresponsibility and also provides an opportunity for those more highly motivated to show the courage of their convictions. There is an old Spanish proverb which goes: "Take what you want," said God, "but be willing to pay for it."

[From the Cincinnati (Ohio) Enquirer, Jan. 2, 1972]

SENATOR TAFT'S QUALIFIED AMNESTY

Sen. Robert Taft Jr.'s (R-Ohio) bill to grant qualified amnesty to draft resisters currently living abroad has been roundly criticized by many who have not, in our opinion, given the plan a thorough appraisal against the circumstances of the problem to which it is addressed.

Senator Taft's plan would provide that interested resisters could return to the United States without fear of imprisonment any time during the year following passage of the measure. Once here, they would be required to offer three years in the service of the country.

The nature of the service would be optional. If a returnee desired, he could enter the military and serve his three years at the lowest pay grade. For those still adamantly opposed to military duty, there would be public-service alternatives including stints with Volunteers in Service to America (VISTA), and hospital work with the Veterans Administration or the Public Health Service. Other agencies may be added during the course of deliberation on the bill.

War resisters who chose to remain in the United States to serve prison terms would be credited with up to two years' service in meeting their obligation under the Taft measure.

Predictably, the highly emotional subject of the bill has resulted in its receiving more than a little attention, and, thus far, the lion's share of the reactions has not been favorable. It seems to us, however, that the bill has not been given a fair hearing—that there are historical precedents and practical advantages connected with it.

Coinciding with the introduction of Senator Taft's plan is the establishment of a national movement known as Amnesty Now, which proposed to press Congress for an immediate unqualified amnesty for draft resisters as well as actual deserters. In addition, the American Civil Liberties Union has just opened an office to help co-ordinate the work of a number of organizations urging amnesty.

The idea of amnesty is not new. In the periods following all the major U.S. wars, the President in office issued general amnesty proclamations. In other wars, however, where the opposition was not nearly so widespread and organized as in the case of Vietnam, amnesty did not become so great an issue and the proclamations created little stir.

The Taft proposal is different insofar as it asks the approval of Congress for a qualified amnesty. It is a step more rigid than the presidential proclamations of the past, which simply wiped the slate clean without stipulating conditions.

From the standpoint of practicality, the Taft bill is the first reasonable response to the real problem of draft evaders. We do not favor general amnesty. But at the same time, we recognize that there are currently some 70,000 American expatriates on foreign soil, most of whom are there because they decided against answering the country's call. From the standpoint of numbers alone, some solution will have to be devised.

What kind of young men are these evaders? The tendency has been to lump them all together and characterize them as wild-eyed anti-Americans whom the country is better off without. But that may be a harsh appraisal.

It will be remembered that, at the height of the war-resistance movement when most of the evasions occurred, persuasive antiwar counselors could be found in abundance around colleges, induction centers and anywhere draft-eligible young men could be found. We are not excusing or condoning the decision to leave the country. But it is easy to believe that many evaders acted hastily and on the advice of others. To deny these young men the chance to correct their mistake seems severe and not at all in keeping with the nation's values.

As far as the hard-line opposition is concerned, the bill clearly does harm to their cause. Many will probably not take advantage of the offer of qualified amnesty, protesting that the basic error was the nation's, not theirs. But the point is that the nation, by showing justice and compassion in the offer, will discredit their contentions that the United States is repressive and uncaring. Future generations of impressionable youths may not be so inclined to listen to the ravings of the disenfranchised few when they know that the alienation is self-imposed.

There is one final, important point to consider. There seems to be some degree of misunderstanding about the limits of the bill. In fact, the qualified amnesty would extend only to draft evaders, not to deserters. According to Senator Taft, the distinction resides in the oath of allegiance taken upon entering the service. Once this has been done, and subsequently dishonored by desertion, the matter can only be handled according to the provisions of military justice.

There will probably be alterations considered in committee and by Congress, and amendments to the bill as it is in Congress. But given the gravity of the problem, we feel that Senator Taft has produced a commendable beginning by forcing congressional attention to the matter. It was the right thing to do—for the sake of the evaders, justice and the nation; it was the courageous thing to do—following the dictates of conscience despite probable adverse political reaction.

We are reminded by this incident of another case when a U.S. senator followed his convictions in finding fault with the legal bases of the Nuremberg war-crimes trials. In the passions of the times, his position was attacked and his beliefs questioned. Later, however, a wide circle of Americans has come to see the soundness of his view and to honor him all the more for having enunciated it. He was Senator Taft's father, the late Sen. Robert A. Taft.

We are confident that, once all the facts concerning the qualified-amnesty bill are understood, Sen. Robert Taft Jr. will have earned a similar measure of respect for his prescience and judgment, and, perhaps most important, for his willingness to stand on them.

[From the Dayton (Ohio) Journal Herald, Jan. 3, 1972]

AMNESTY BILL—PROPOSAL BY SENATOR ROBERT TAFT IS HUMANE

Sen. Robert Taft Jr., R-Ohio, has offered a humane way for the United States to repatriate many of the estimated 70,000 young men who chose to flee the country in the last few years rather than accept induction in the armed forces.

His limited amnesty bill would enable draft resisters to return to this country if they agree to serve for three years, either in the armed forces or in some form of approved alternative service, including service with Volunteers in Service to America (VISTA). The amnesty would also apply to those who chose to go to jail. About 500 draft resisters are now in prison.

The conditional amnesty would not apply to those persons who have deserted from the armed services. About 35,000 deserters are at large.

Sen. Taft's bill has received support from Rep. Edward I. Koch, D-N.Y., who has announced that he will introduce companion legislation in the U.S. House of Representatives. Quick action on one of the bills would offer to many thousands of young Americans in Canada and overseas a new start as American citizens.

We are certain that many of the young American men who fled the country rather than face induction and possible service in an unpopular war would like a second chance to fulfill the obligations of citizenship.

Some draft resisters of course would not return on any terms acceptable to a society with an obligation to uphold the law and honor bound to keep the faith with those who did obey the law—even though obedience may have been in conflict with conscience. The alienation of these resisters is a price they—and we—must pay in the balancing of public and private morality.

But to close the door implacably against the others—those who want to return home, and who are willing to accept the service obligations they once shunned—is to turn the nation's back to its children. Sen. Taft's bill seems to offer a graceful way for these young men to retrace their steps.

There have been victims enough in the Vietnam war. We believe the United States must find a way to reach out to some of the young people who oppose the war, and to heal the divisions that the war has created.

[From the Detroit Free Press, Jan. 4, 1972]

WE MUST FIND COMPROMISE TO HEAL AMNESTY DIVISION

If Sen. Robert Taft of Ohio was floating any kind of trial balloon when he suggested an amnesty plan for draft dodgers recently, it must have been for President Nixon's personal inspection.

Public reaction was instantaneous and lopsidedly negative, but in Mr. Nixon's interview Sunday night with Dan Rather of CBS, the President indicated that he had paid some attention and was at least moderately impressed by what Sen. Taft proposed. He didn't get specific, but he was less specifically opposed than he was in November. Asked then if he would grant amnesty once the war was over, Mr. Nixon answered with a flat "No."

But Sunday night he first said he wouldn't consider amnesty, then later qualified it to say he wouldn't consider amnesty as long as there are troops in Vietnam and POWs in Vietnamese prison camps. After that, perhaps, "we will consider it, but it would have to be on the basis of their paying the price, of course, that anyone should pay for violating the law."

Whether what Mr. Nixon said will be any more acceptable than what Sen. Taft said remains to be seen, but Sen. Taft discovered he was caught between two strong and highly volatile views of patriotic duty.

What Sen. Taft proposed "in the name of simple charity" was no forgive-and-forget plan, but three years of "penance duty." The draft evader could serve in the armed forces or in some alternative service such as a VA hospital for three years and win his citizenship back. For those 500 or so draft resisters imprisoned, time spent in jail up to two years would count as part of the penance.

Maybe because the source was so respectably and rigorously Establishment, in contrast to Sen. George McGovern's plan, Sen. Taft's plan has stirred more furor than any other. Only one Senate colleague, Frank Moss of Utah, joined him. His Ohio colleague, Williams Saxbe, called the draft dodgers "a bunch of dogs" and said he's not ready to forgive and forget.

Sen. Taft's mail is overwhelmingly against his plan, his office says, with hatred and vitriol being the most common ingredients.

On the other side, the draft dodgers in Canada, who make up approximately 50,000 of our 70,000 total, hardly take any more kindly to the idea. Robert Gardner, a counselor for the Canadian Council of Churches, summed up their attitudes in a recent issue of the New Republic:

"What the raticulate among them are saying goes something like this," he wrote. "Amnesty is not our problem; it is the problem of guilt-ridden American liberals. We have done nothing for which we need to accept forgiveness. In a choice between being criminals in Southeast Asia, being treated as criminals in American prisons and stockades, and a new life in Canada, we chose Canada.

Given the passions of the moment, it is hard to see what compromise can be reached, though one must eventually be found. Mr. Nixon's implied answer of a jail term at best can probably be ruled out, if for no other reason than that he could hardly offer more while he's still sending young men to Indochina.

So, too, can the response of the draft dodgers in Canada, if for no other reason than that their solution is unrealistic. To accept their position that they are not the ones who need forgiveness means that all of those who did go to Indochina, all of those who died, and all of those who ordered them to go, do need forgiveness.

If "amnesty" implies guilt, then "repatriation," which is what they want, implies confession of national criminality. While most Americans would agree the war was a tragic mistake and many would agree that it was immoral and illegal, a national mea culpa borders on the ridiculous.

Between these two extremes, though, there must be grounds for compromise. Agreement that the war was a mistake in no way diminishes the deeds or heroism of those who served. In no way does it diminish the anguish of the families of those who died.

But from its very start this war has split the nation. While we do not believe that every draft dodger acted from conscience, it is undeniably true that many did. And it is also true that, under today's Supreme Court interpretations of the Selective Service Act, many who were denied conscientious objector status before going to Canada would have been granted it now.

At the same time, we must recognize that, while Vietnam was the main reason for the draft, it was not the only reason. Whether the Vietnam war was legal is moot in the face of the fact that the draft itself is legal. Thus a distinction must and should be made between refusing to be drafted and refusing to fight in Vietnam. Those who obeyed the law are entitled to considerations not earned by those who evaded it. And, to assume the right of civil disobedience, as draft evaders did, also means to assume the consequences.

This is not an easy debate or a neat one. At its worst it could divide the country as the war itself has done. At its best some will feel cheated, others abused.

But a solution needs to be found, not only for the 70,000 who dodged the law, but for the millions who did not. We have no ready answer. Neither, apparently, does Sen. Taft. But he deserves our thanks for putting a highly emotional issue into what he called the framework for a "reasonable discussion."

[From the Cleveland Press, Jan. 5, 1972]

TAFT STICKS TO HIS GUNS

Ohio's Sen. Robert Taft is getting some flak on his proposal of amnesty for draft evaders, which he must have expected.

But as reported by Press Washington writer Bob Crater, Taft also is receiving a fair amount of encouraging support, which is good to hear.

Feelings run high on both sides of this matter, an unfortunate side issue in a costly, undeclared war which has badly divided this country and brought some measure of discredit to the leaders who stealthily escalated the conflict.

President Nixon has been cool to Taft's amnesty plan, but Taft has stuck to his guns and shown his independence in doing so.

The President said that after the war is over "we will consider amnesty, but it would have to be on the basis of their paying the price . . . that anyone should pay for violating the law."

Nixon's statement is ambiguous and raises the question of whether he fully understands Taft's proposal. When the President talks of "paying the price for violating the law," this does not sound like amnesty.

Perhaps he is not aware that the proposal for amnesty calls for draft evaders to serve three years in a noncombatant role in the armed forces or spend a similar amount of time in some public service work, such as a job in a veterans' hospital. Thus draft evaders would not go scot free, but would be offered a path they could travel back into society without going to prison.

This is a reasonable approach to a nettlesome problem that will not go away by itself. The nation cannot merely forget about some 70,000 young men who faced an awesome decision and acted as their conscience dictated.

Taft should stay with this. It could well turn into a presidential campaign issue, one on which all the candidates would have to stand up and be counted.

[From TV channel 5–WEWS, Cleveland, Ohio, Jan. 8, 1972]

TAFT AMNESTY PLAN MAKES SENSE

"Someday, maybe. But not now." That was Senator Saxbe's reply when I asked him about Senator Taft's amnesty bill. When Saxbe first heard about it, he had been a good deal more emphatic than that. He called the draft resisters dogs and said they deserved to be in jail.

Senator Taft told me yesterday that he wasn't surprised at the national debate his plan has started. As the war winds down it was inevitable that he would have to get into the questions that Senator Taft's bill has raised. Most Americans, including Senator Saxbe, think the war was a mistake. Yet, not so long ago most Americans supported the war. What should our attitude be toward young men who saw the light before the rest of us and refused to be involved in it? Is there a difference between the man who resists service out of fear and the man who resists out of moral conviction? How do you tell one from the other? Do you treat them differently? Is amnesty to draft resisters unfair to those who didn't resist and who served and were wounded or killed? Will amnesty help heal the nation's wounds in the aftermath of this unpopular war or will it make them worse?

I asked Senator Taft if he felt the timing of his bill was a mistake, especially in light of the debate it has kicked up. He said, no, that when people understand his bill, they will support it. He said his mail which was negative at first is now favorable to the plan.

To be realistic the immediate prospects for Taft's amnesty bill don't look too good. But as the war continues to wind down and the pain of it recedes in the national mind, there will be amnesty of some kind. I think Senator Saxbe spoke for most middle Americans when he said, "Someday, but not now." It still hurts too much to deal with the emotional and moral questions that it poses. But certainly someday. And we will most likely accept an amnesty fashioned along the lines that Senator Taft, with rare courage, laid out before the Senate and the nation.

[From the Dayton Daily News, Jan. 4, 1972]

LIMITED AMNESTY

As the Nixon administration winds down the United States participation in the Vietnam conflict, one of the stickier issues remaining is that of the draft dodger.

These are the young men who either fled the country or went to prison rather than be inducted into the Nation's armed forces.

The issue is emotional. Eventually, there probably will be a general amnesty; that has been past practice.

Senator ROBERT TAFT has come up with a possible interim solution. It is certain not to please the extremists on either side.

Senator TAFT has introduced legislation which would amnesty those who have fled the Nation (some 70,000) and those who are in prison (some 500) because they refused to be drafted. To qualify for amnesty, the young man would have to serve 3 years in one branch of the armed forces or in some other selected Federal field of endeavor. Time already served in prison would count.

The proposed bill would not apply to military deserters.

It may be that Senator TAFT's proposal is the one embodying the greatest amount of logic and the greatest sum of understanding. At this point it appears to be an acceptable answer.

[From the Byzantine Catholic World, Jan. 9, 1972]

EDITORIAL—AMNESTY

We are now in a presidential election year and the administration's timetable will increasingly dictate a wind down of American participation in the Indochina War. As our participation in this war diminishes and increasing numbers of our soldiers return home, there is mounting new interest in the uncounted numbers of draft evaders in Cannada who, too, now want to come home as honorable citizens if not, indeed, as heroes.

In Eugene, Oregon, Charles O. Porter, formerly a Representative, has organized "Amnesty Now," with the purpose of gaining general amnesty for draft evaders whom Mr. Porter describes as "victims of the national debate over the war." "No man," he adds, "should be punished for refusal to participate in an immoral war."

In New York City, Harry Schwarzchild heads the American Civil Liberties Union "Amnesty Project" office which opened January 1st. He refers to draft resisters as "American refugees (who are) made up of some of the most promising young men in our society."

In the Congress, Representative Edward I. Koch (D.-N.Y.) and Senator Robert Taft Jr. (R.-Ohio) both have introduced bills which would permit those draft evaders to return but avoid prosecution by volunteering for two or three years of alternative service in some Federal social program. (In response to this, Mr. Porter says that "these men have already paid a high price in exile or hiding," and he is opposed to any alternative service.)

Jack Calhoun, a draft resister in Toronto, Ontario, Canada, wants a general amnesty without any obligation of alternative service. He has written to Representative Koch saying that alternative service was something which he and his brethren wanted but were denied five years ago. It is his contention that they had no choice but to flee the United States because they did not want to "become criminals of the heart." Calhoun added that a "Government which has the stain of Indo-China on its conscience has no business passing judgment on our 'crimes'." (Curiously, in 1960, now 12 years ago, 16,278 men were granted conscientious objector status, a figure which rose to 61,412 in 1971. In the

years 1967 to 1971, 182,918 men won C.O. status.)

All America wants out of Vietnam not because our entry into it was immoral—there was a time when fighting communism was considered to be a very noble and righteous thing—but, rather, because we became bogged down in a no-win war. We had given the enemy sanctuary and did not pursue him; we bombed the Ho Chi Minh trail and left Haiphong harbor wide open, to cite two examples of a no-win strategy. Our soldiers in Vietnam have been fighting in accordance with the expediency of politicians rather than under the strategy of military commanders. And, politicians have no more expertise in running wars than they do, necessarily, in operating governments.

Nevertheless, thousands upon thousands of American young men have stepped forward upon the call of their draft boards to fulfill their obligations to their government as citizens of this nation.

Thousands of others, some 70,000 to 100,000, have either gone into hiding in this country or have fled to Canada.

Now, as the G.I.s return from Indochina, these draft evaders want to come back from Canada or come out of hiding, returning to their hometowns and assuming once again their true identity.

We would gladly extend a hand of welcome to Jack Calhoun, now of Toronto, if we could at the same time give a Vietnam veteran back his arm. We would happily embrace the draft evader as a hero if we would not at the same time be calling the returning infantryman a fool. Quickly would we pay tribute to the high price of exile and hiding if we could just as speedily breathe life into a mother's son who has come home and knows not where he has been laid to rest.

Mr. Schwarzchild's reference to those "American refugees" as the "most promising young men in our society" is not only a brazen falsehood but an insult to every young American who had the courage to accept the chalice of service when it was asked of him. We have always been under the impression that boys become men in the face of adversity rather than in the shadow of disguise.

The penalty for draft evasion is up to five years imprisonment and a $10,000 fine. Asking draft evaders, those outdoor track men to the north, to serve two or three years of alternative service is a most gracious gesture on the part of Representative Koch and Senator Taft and should be accepted with humble thanks by those deserters of their country. They would, indeed, have to travel far and wide to find elsewhere so forgiving a nation betrayed.

[From Time magazine, Jan. 10, 1972]

THE PROS AND CONS OF GRANTING AMNESTY

Should draft resisters and deserters be given amnesty? Or should they continue to be prosecuted and forced to remain in exile? The question is one of the most difficult the country confronts as the bitter war winds to its conclusion. Until recently, even longtime opponents of the war have shied away from this emotionally charged issue. President Nixon, his chin outthrust, answered the question with one firm word—no—at a press conference in November. But with an end to the war in sight and an all-volunteer Army on the near horizon, the topic is gaining currency. Ohio's Republican Senator Robert Taft Jr., a Republican with impeccable credentials, went so far last month as to introduce a bill to grant amnesty to draft resisters—with the stiff provision that it be coupled with three years in compensatory military or civilian federal service.

Others would go much further. Groups are being formed round the country to bring pressure to bear on Congress and the Administration to grant amnesty, and the American Civil Liberties Union is opening an office in New York this week to coordinate their efforts. The question may be one of the emotional issues of the presidential campaign. Though the Democratic front runner, Senator Edmond Muskie, believes that the matter should not even be discussed until the was is over, other Democratic contenders, Senator George McGovern and New York's Mayor John Lindsay, have taken positions in direct opposition to Nixon. McGovern has announced that if he is elected, he will grant amnesty to all draft resisters (but, like Taft, he would not give it to deserters). Lindsay has taken a position similiar to Taft's, although he would require two, rather than three years of work in the national interest.

The new youth vote will probably favor amnesty. "If a candidate expects to have young people going door to door in his behalf, he'd better get right on amnesty," says Charles Porter, a former Congressman from Oregon and head of the National Committee for Amnesty Now. Many older people, especially those who have had sons in Viet Nam, would undoubtedly be just as vehemently against it. The political advantages on either side are difficult to assess, but on balance, it seems that this year a position that favors complete amnesty, without some kind of compensatory work, would be a political minus that could cost any candidate votes from the center.

Yet the issue itself transcends politics and comes down to a basic moral question: Is amnesty justified under the circumstances?

The first recorded amnesty was granted by Athens in 403 B.C. to most of those who had collaborated with Athens' Spartan conquerors after the Peloponnesian War. (The word itself is from the Greek *amnestia*, which means "forgetfulness.") The Romans, on occasion, continued the custom, which they called *restitutio in integrum*, and many other states since then have granted amnesty to achieve reconciliation after a civil war or a period of internal strife. France, which has seen more such conflict than most countries, has made amnesty almost a habit; the latest example occurred in 1968 when right-wing opponents of Charles de Gaulle's Algerian policy were forgiven their earlier campaign of terror. Britain, with a more placid history, has had less reason to grant amnesty; it did so, however, after its civil war in the 17th century, after the Restoration of Charles II a few years later, and again in the 18th century to those who took part in the second Jacobite rebillion.

Like Britain, the U.S. luckily has not until now had much occasion to grant amnesty. There is precedent for it, however. George Washington pardoned those who participated in the so-called Whiskey Rebellion in 1794, and Abraham Lincoln offered forgiveness to lower-ranking members of the Confederacy in December 1863. That, of course, was 16 months before the end of the Civil War, and could be read as a shrewd tactical encouragement of defections. But Lincoln's successor, Andrew Johnson, extended the clemency to the South after the war, over the opposition of the Radical Republicans, as a way of bringing a divided nation back together. More to the point—and a better precedent for today's proponents of amnesty—would be the case of deserters from the Union itself. In March, 1865, just weeks before the war ended, Lincoln, with the approval of Congress, granted amnesty to all Union deserters, with the stipulation that they must return to their units within 60 days and serve out their enlistment periods. Those who chose not to take advantage of this offer lost their citizenship.

The question did not take on major proportions again until World War II. Sixteen months after V-J day, President Truman responded to public pressure and established a three-man Amnesty Board to determine whether those who had been convicted of refusing to fight should be further punished. The board was less than lenient, partially because World War II had wide popular support. Of the more than 15,000 cases considered, only about 1,500 men were pardoned, most of them on religious grounds. "Intellectual, political or sociological convictions" against the war were not accepted as excuses, and clemency was not granted to those who, in the board's words, "set themselves up as wiser and more competent than society to determine their duty to come to the defense of the nation."

Since the Viet Nam War is unlike any in the nation's history, perhaps no precedent should be sought in history. Nearly everyone, even those few who still favor pursuing the war, now agrees that the U.S. should never have become involved in the way it did. Why punish those, ask the proponents of amnesty, who saw the light first? Many Americans have been against the war, but because they were ineligible through age, sex or infirmity, were not forced to back up their beliefs with their lives and careers. Why persecute those who, because they were young and eligible, did put their lives behind their convictions? Those now in exile or in jail, add the supporters of amnesty, include some of the most intelligent, the best educated and the most passionately concerned men of their generation. Most of them are a gain for their homes of exile, particularly Canada, where the majority live, and equally clearly, they are a great loss to the U.S. Why should the country so willingly, even perversely, suffer such a drain on its talent and spirit?

Beyond that, there is a practical argument in favor of amnesty. Many deserters, perhaps a majority, are already being quietly discharged, mostly because many military commands are unwilling to go through complicated prosecution procedures. The most celebrated recent example was the case of eight sailors who deserted last October from the carrier *Constellation* as it made ready to depart for Indochina, and took refuge in a San Diego church. All received a general discharge from the Navy under honorable conditions, which carries no penalty and only slight stigma. Is it fair to let some go and not others, or to create a situation in which it is wiser to desert than to resist the draft. The FBI, after all, boasts of its record in catching resisters. Uneven justice is no justice. Another highly persuasive argument for amnesty: no other action could be as effective in persuading the young that once again they can trust the humanity of their Government. In this sense, amnesty would serve its traditional function: healing angry wounds.

The case against complete amnesty is more compelling, however. Perhaps 70,000 men evaded the war—though no one has anything like an accurate figure. What about the 3,000,000 others who fought in it, 55,000 of whom died? In effect, say its opponents, amnesty would tell the man who fought or was wounded—or the survivors of the man who died—that he should have had better sense and sat out the war in Stockholm or Toronto. This is the emotional crux of the problem: Would it be fair to those who fought to forgive those who refused?

More practically, how could the U.S. ever field an army of draftees again if it established the precedent that draft evasion will be forgiven? An act of compassion and mercy now, however well-intentioned, might cost the country its freedom at some time in the future. And while amnesty might reconcile one group, say the opponents, it would embitter many Americans. Healing some wounds, it would exacerbate others, they contend. Senator Taft can attest to the bitterness of those who oppose amnesty. He asked one protester what should be done about draft evaders if his plan is rejected. The answer: "Shoot them."

One further technical point against amnesty is the difficulty in separating the draft evader from the deserter, as Senators McGovern and Taft both do. They would give amnesty only to resisters, presumably on the

premise that it is not as bad to avoid service as it is to desert once in. Desertion still sounds like unpardonable cowardice to most Americans. In a sense, this distinction may be discriminatory. An uneducated farm boy from Mississippi probably would not have had the knowledge to evade the draft; any college boy could pick it up in an hour. Or, on the other hand, perhaps the deserter did not oppose the war until he saw it firsthand. Should he therefore be penalized? If amnesty is granted, it should in fairness be given to both draft evaders and deserters.

After all the other arguments are made, two bedrock questions remain, one profoundly moral, one eminently practical. Does the individual have the right to decide which laws or which wars he will support? If he does, can the U.S. Government—or any government—survive? The draft evaders and deserters claim that they are serving a higher law than the Selective Service Law—the law of morality. They might quote St. Thomas Aquinas. "Human law," he wrote, "does not bind a man in conscience, and if it conflicts with the higher law, human law should not be obeyed." That is a maxim followed by all who have broken the law as a matter of conscience, from Thoreau and Gandhi to Martin Luther King and the brothers Berrigan. The principle that a man's conscience takes precedence over the dictates of his government was reinforced at the Nuremberg war crimes trials, which rejected the claims of Hitler's lieutenants that they were only following orders.

Historically, however, democratic states have countered that they represent the people's will and the people's morality. They are merely instruments, not ends in themselves. If he has a legitimate means of registering his dissent, the citizen cannot take illegitimate means or decide for himself which laws he will obey and which he will disobey. "In war, and in the court of justice, and everywhere," Socrates told Crito before he drank the hemlock, "you must do whatever your state and your country tell you to do, or you must persuade them that their commands are unjust." For each man unilaterally to veto the law would create anarchy—a kind of immorality of its own. The precedent of Nuremberg, it might be added, applied only to the high officials of the Nazi government, those who had substantial freedom. The ordinary officer or soldier was not held responsible because he did not have the right to question Hitler's orders.

Yet there are some laws, even in a democratic society, that are so unjust that any man of conscience and determination cannot obey them. Segregation laws that discriminate against race are the best recent example in the U.S. Opponents of the war would say that service in Viet Nam is another. In that case, the conflict between the two arguments is in a sense insoluble, and the answer is not at all satisfactory: the law must be disobeyed, but the law's penalty must be accepted. That is the solution of the Thoreaus, the Gandhis and the Kings, and it must be the solution for the current resisters and deserters as well. The country can appreciate their courage and their convictions, but cannot excuse them from the consequences of breaking the law.

To say this, however, does not exclude mercy or suggest a vengeful policy. After the war finally ends and passions have cooled, a conditional amnesty should be granted. Under it, the exiles should be offered the right to return, and those imprisoned for draft resistance should be released—provided that they are willing to accept certain conditions. One of these might be some kind of compensatory service, perhaps as has been proposed, in a poverty program or in the peacetime military. That is far from an ideal solution—but it may just be the best.

[From the Nation, Jan. 17, 1972]

THE AMNESTY PROBLEM

Amnesty is an idea whose time has come. Not that it is a simple idea, or without shades of implication. The fact that the individuals affected fall into different categories—conscientious objectors, deserters, young men who simply failed to register, et al.—is one source of complexity. Then too it is said that the proposal is premature, in the sense that the war drags on and it is unfair to consider amnesty for some men while we are still drafting others.

There are obvious answers to both sets of objections, but they all boil down to one outstanding fact: this war is *different*. We are approaching a consensus that it was a mistake from the beginning, that we should never have gotten into it, that "a decent respect for the opinions of mankind" requires that we repent and get out as soon as logistics will permit.

That this war is unlike any other in which we have engaged is shown by one statistic: the U.S. desertion rate in Indochina far exceeds that of our earlier wars and is nearly double that of World War II—72.9 per 1,000 for the latter, 142.2 per 1,000 in the present conflict. Of course desertion has many causes and may not always involve revulsion against a vicious national policy, but a 14 per cent desertion rate surely indicates that American intervention in Vietnam has had a low patriotic appeal.

But if the policy was and is wrong, those who opposed it, either by open refusal to serve or by leaving the country, should not be punished. If there is to be redemption, they will have helped to redeem us. That is the flaw in Rep. Edward I. Koch's compromise proposal for alternative service. It comes too late. A draft register now living in Canada wrote to Koch that "many of us would have been quick, willing and anxious to accept such a proposal five years ago. . . . Many of us are exiles today precisely because such an alternative was denied to us in the past. We left the States because we did not want to become criminals of the heart and now feel that a government which has the stain of Indochina on its conscience has no business passing judgment on our 'crimes' and meting out punishment. . . ."

The problems inherent in the amnesty proposals can be worked out equitably if the public is let in on what is at stake, and this can be done only by open Congressional hearings. The roadblock is Senator Eastland, chairman of the Judiciary Committee. If he can, he will resort to total opposition, in line with the President, who sees another chance to placate his right-wing critics. However, Eastland may be forced to submit the measure sponsored by Representative Koch and Sen. Robert A. Taft, Jr. to one of several subcommittees; if so, he is likely to choose the least amenable. He may not have it all his own way; the Taft name carries weight in the Senate. There is also the possibility of adding amnesty measures by amendment or rider to bills dealing with other matters.

A few commentators have expressed surprise that Senator Taft is in favor of amnesty in principle, and is sponsoring legislation to that end. *The Nation* finds Mr. Taft's action quite in keeping with the family tradition. The Tafts have always been conservatives, but conservatives with a conscience and good sense in the face of changing conditions. They have not been militarists and have never been ashamed to exhibit humanitarian concerns. They have shown consistent respect for the Constitution and for civil liberties. They differ, in this respect, from the *ersatz* conservatives who are trying to take over the Republican Party, and who will surely oppose amnesty with the usual cry of "bleeding hearts." But that is a difficult label to pin on a Taft.

THE PAINFUL QUESTION OF AMNESTY

(By Milton Viorst)

President Nixon, as you may have noticed, is not accustomed to referring to himself as liberal. But in his interview on CBS last week, he said—rather courageously, I thought—that he would be "very liberal with regard to amnesty."

He was not specific about what he would do, except that he would do nothing immediately. But the fact that he eschewed an attitude of punitiveness toward the young men who preferred flight to fighting in Vietnam is very encouraging.

It would have been easy for him to do otherwise. Unpopular as the war has become, I don't think the young men who broke the law to avoid it have become national heroes. Besides, the President tends to be a cold-hearted moralist—and it would have been characteristic of him to be stern and unforgiving.

Instead, he enunciated the important principle that the war must be followed by the nation's reconciliation—even with those who dodged the draft. This was Nixon at his best.

What his statement signifies, I think, is that there will, indeed, be amnesty for the estimated 70,000 young men living in exile, as well as for some 5,000 others in jail or under indictment. But I foresee much agonizing before a national decision on amnesty is made—and on what kind of amnesty it will be.

For the amnesty decision will, in the eyes of most people, embody a moral judgment—on whether the Vietnam war was right or wrong. This is a question on which most Americans continue to feel very deeply.

My own view is much closer to the second than to the first. I don't, of course, idealize all the young men who fled the draft. Some, I am sure, did so for quite ignoble motives.

But I hold the war as reprehensible—and I feel that those who were revolted enough by it to flee their homeland and go into exile have been guardians of the national conscience. I think they will be remembered by history for symbolizing that all of America did not acquiesce in this god-awful war.

Yet, having said that, I confess I am not comfortable with the notion of their being welcomed back as if nothing had happened—if only because 55,000 other young men who had a different and valid conception of duty died in Vietnam.

I think that if we accept the patriotism of the draft-evader, we also must accept the patriotism of the soldier—and though both made sacrifices for their country, few of us would deny that Sweden, or even a federal penitentiary, is sweeter than the grave.

What I am saying is that there is a question of fairness involved, which I do not think can be dismissed.

I would keep in mind, furthermore, that the draft-evader, however lofty his objectives, knowingly chose to put his conscience above the constitutional processes of the state. That I happen to agree with his objectives is irrelevant. I believe our society still is democratic enough that violations of the law—however ideological—should not be overlooked.

At the least, the draft evasion of the Vietnam era has been civil disobedience (quite distinguished from treason). In helping turn sentiment against the war, it achieved its purpose. But the claim that the state should now forget it demeans, in my view, the meaning and courage of the act.

Sen. Robert Taft Jr., the Ohio Republican, introduced the first amnesty bill in Congress last month. It proposes, in return for amnesty, three years of service—I'd prefer two—in hospitals, ghetto schools, VISTA or similar work.

He made the proposal, he says, "neither out of remorse nor of sympathy, but as a

practical solution to a national concern . . . to unite these men and their native land."

The Taft conception, it seems to me, is fair, workable and free of ideological self-righteousness. The President already has set a tone of conciliation. It is time now to face up to this painful problem—and enact a settlement.

WHAT ABOUT "OUR BOYS" WHO REFUSED VIET DUTY?

(By Max Lerner)

NEW YORK.—Draft resisters, fugitives, exiles: What shall we do with them? How a nation ends a war is as important as how it starts one. Along with the winding down of actual fighting, there must be a winding down of the internal hates and hostilities the war generated. That is why the issue of amnesty for draft resisters is crucial now and why a national debate on it is overdue.

Sen. Robert Taft's bill to extend a hand of conditional welcome to those who resisted or fled the war has caught national attention, where the earlier bills of Rep. Ed Koch didn't. The reason may lie in Taft's name and in the fact that he is a respected Ohio Republican, while Koch is a liberal New York Democrat.

Many will resent the idea of bringing back into society those who refused to fight while others were dying. There is always the danger that those who fought and the families of those who died will be embittered by such an act of clemency and that they may stir up social passions. But the idea of revenge is already a social passion. Neither revenge nor hardness of heart is a good emotion to have rampant in a nation.

500 IN PRISONS

There are 500 still in American prisons whose lives have been blighted enough. There are 15,000 exiles in Canada, some 55,000 in other countries. Let them come home, give them a second chance, says Taft, and I agree. A continuing social anger against them will turn them from young men who heeded their conscience at a high cost, into a group of permanently embittered outcasts who could turn into enemies of America.

Taft's proposal sets a condition, that they volunteer for some form of noncombatant or civilian service. Some of the spokesmen of the exiled groups in Canada have rejected the whole idea, saying that the war as they see it was illegal and immoral from the start, and that America owes them the right to go back with no ifs attached.

OWES SECOND CHANCE

I doubt whether this will get a wide response. What does America owe them actually? It owes them a second chance. The right to return is not an absolute right. They must earn it. I don't see this as a kind of redemption but quite simply as an effort which will again make them part of American life, without violating their antiwar conscience which made them go to prison or leave America in the first place.

The noncombatant or civilian service need not be for three years, as Taft's bill provides. If it is seen as a symbolic act on the part of the returning exiles, a year or 18 months should do as well. The life of exiles is bleak and rootless. The life in prison is mutilating. Both groups have already paid a heavy price for what they did, whatever their motivation. The additional price should be only a symbolic one.

AND THE DESERTERS

One must treat the question of some 300,000 military deserters and AWOLs as a separate one. While many of them recoiled from the war, the element of antiwar conscience was not there to start with. When the draft is done with and a volunteer army takes its place and if the problem of the fugitives can be settled, the deserter problem will become more manageable. For the present, a general amnesty for them might crumble whatever discipline and deterrence the military still has.

In the case of the draft resisters this doesn't apply. Toward them there should be nothing to interfere with magnanimity. There has been considerable talk of politics, not magnanimity. There are some who feel that President Nixon will welcome the whole issue of amnesty in the election campaign, since his opposition to it would give him a chance to reassure the South and the conservatives in his own party.

BEST POLITICS?

That may be so, yet here as in other cases the generous policy may prove to be the best politics, also. If Nixon wants to undercut the Democratic hold on the vote of the young, this may be one way to do it.

On every score, magnanimity is the key. This has been true after previous wars as well. The stakes of social peace and creativeness are high. Such an act by Congress and the administration would set a good example for postwar social cohesion and trust. It would make it possible to heal the traumatic breaks in tens of thousands of lives, and give young men in the prime of life a second chance to use their full potentials back on the soil of their own country.

Finally, it would undo what could be an unhealthy effect on the nation's future. There has been a selective migration of many who showed a courage of the individual conscience. This is something that America—or any other power system—cannot afford to lose.

DODGERS, COME HOME

(By Andrew Tully)

I trust none of my readers fell down in a faint upon learning that "spokesmen" for American draft dodgers in Canada denounced as "unacceptable" an amnesty bill offered by Sen. Robert Taft Jr., R.-Ohio, which would require three years of noncombatant military duty or service in a social agency in return for immunity from prosecution.

It is the position of these gems of nobility that they have a right to repatriation. According to their assorted "spokesmen," Taft's bill is an affront to the "more sensitive and articulate" among them.

There is strong reason to doubt that this represents the attitude of the some 70,000 dodgers living in Canada or elsewhere. Most of them I gather would like to come home if the government agrees not to herd them off to jail. At any rate, the exiles were not too ruddy sensitive to let other young men serve in their places and sometimes get killed, and they are mostly articulate on the issue of a privileged right to defy the law of the land.

Taft's bill is a good one. (Were there any injustice, it would be called the Tully bill, since I have been demanding such a solution for years, but as a politician Taft needs more points than I do.)

The bill is good for many reasons. It would apply also to about 500 draft dodgers now in Federal prisons, with as much as two years of their prison time deducted from their three-year service obligation. The amnesty offer would hold good for only a year after the bill's enactment, a test of the exile's sincerity. And military deserters are specifically excluded, on the solid grounds that discipline in the armed forces must be sustained.

Perhaps most important, Taft's bill jibes with the American theory of the right of redemption. The Republic should salvage these young men if possible. As Taft put it, draft evaders who agree to take up the offer would show that they "are entitled to a second chance"—even as are three and me.

Taft also has reminded us that "many of these draft resisters are victims of bad judgment and poor advice." Regardless of the proclamations of professional youthdom that they should run the country, sane people recognize that an 18-year-old's judgment is relatively imperfect simply because he's lived only a little. Unfortunately, this bloc tends to think with its glands, as was shown by its emotional support of the charlatan Gene McCarthy in the 1968 Presidential campaign.

And they sure as shooting—you should pardon the expression—got some bad advice from ol' Ben Spock and other self-styled intellectual "freedom lovers" and assorted academic rabble rousers. While their followers went to jail or into exile, Spock & Co. survived arrest, indictment and trial for their "poor advice" and have continued freely to live it up on campus, in plush foundation offices and the more elegant saloons.

I suppose it is inevitable that the amnesty question will become an issue in the 1972 campaign. I will also give fat odds on Republican Taft against Democratic Sen. George McGovern, whose solution has the doubtful quality of absolute simplicity. McGovern, a nice guy who sometimes lets his good heart run away with him, has advocated a general amnesty for all resisters and exiles with no requirement for alternate service.

Congress may not buy the Taft bill. Legislators like Sen. Richard Schweiker, R-Pa., have come out against it as unfair to those who died in Vietnam, and President Nixon has always been cool to the amnesty idea. But the administration and its Congressional leadership could win some votes by backing Taft, whereas the Democrats suddenly would have to come down with a death wish to go along with McGovern.

[From the Minneapolis Star, Dec. 29, 1971]

VIET AMNESTY PROS AND CONS

(By Austin C. Wehrwein)

Despite precedents for a Vietnam amnesty reaching back to George Washington, Sen. Robert A. Taft Jr. stirred some furious response when he introduced a conditional amnesty bill just before Christmas.

A few samples from his mail: "Only traitors defend draft dodgers" . . . "A bald insult to the men now in service and their families" . . . "A political football, an attempt to defuse the issue with the approach of an election year."

The Ohioan, whose name is synonymous with "Republican," fully expected such reaction. And, rather than defusing the issue, he put a match to it.

Yet, his courageous stand was inspired neither by draft dodgers nor left-wing peace groups, but by a Scio (Ohio) Air Force Reserve colonel, Dr. J. Z. Scott.

No dove, Scott early this month wrote Taft, saying that because 55,000 died serving their country in Southeast Asia, draft resisters should not be welcomed back with unconditional amnesty. Then Scott added, "Similarly, I believe it is a great mistake for us forever to foreclose these young men, however misguided, from participation in American life."

That sentence is the essence of Taft's rationale. He believes that the exiled and imprisoned resisters were victims of bad judgment or poor advice, or, he concedes, deep conscientious objections. The basic concept is forgiveness and rehabilitation.

In a letter to constituents and others who wrote him about his bill, Taft added another point: that the June 15, 1970, Supreme Court case of Welsh versus U.S. liberalized the test for conscientious objector status by eliminating the need for belief in a supreme being.

Thus, Taft said, in one family a youth might have been ineligible for C.O. status and opted for prison or exile, while his younger brother, holding the same views on the war, could have become a C.O. after the Welsh case came down. That, Taft said, was unfair.

But he drew the line at amnesty for de-

serters in his bill, contending that they were a matter for the military and that to release them would destroy the armed forces' morale and discipline.

There are three general categories:

First, the self-imposed exiles, at least 70,000 in Canada and other countries, notably Sweden, many of whom have been joined by wives and girl friends. Some are deserters, as opposed to evaders.

Second, those in prison, about 500, plus about 3,000 who have finished their sentences. Among them are activists like the "Minnesota Eight" who not only refused to serve but staged incidents at draft boards that involved offenses against government property.

Third, 89,000 deserters, exiled and otherwise, together with close to 10,000 in military stockades for violation of the military code or awaiting trial on that ground.

Those figures, plus men dishonorably (or less than honorably) discharged, present a mix of problems that Taft's plan can't completely cover.

Taft is caught between those like former Sen. Ernest Gruening, D-Alaska, who would amnesty all with "war-connected" prison sentences or less than honorable discharges and the evading exiles . . . and, on the other hand, those like the American Legionnaires, who insist on full prosecution of "draft dodgers."

Then there are those like Sen. Thomas J. McIntyre, D-N.H., whose question is: "What do I do with a mother whose son had doubts, and was killed?"

A basic legal-philosophical problem is that many resisters, regardless of category, mix religious and moral scruples with equally strong political convictions. Too, it is not uncommon for them to hate the military, as such, as much as the concept of war.

How then can a simple distinction be made between a "deserter" and an "exile" who was never actually in uniform, or between a "resister" who took prison and an imprisoned man whose "resistance" bloomed after he was in service?

Another sticking point is that Canadian exiles are hardly unanimous. The militants insist that, rather than being forgiven, it is they who should be asked to forgive. They talk not of amnesty, but of unconditional "repatriation."

On the other hand, many exiles, both in Canada and Sweden, have become homesick, or if not actually homesick they find it impossible to adjust, often to find jobs. There is some open hostility to the exiles as well. While it would be surprising if many would opt for military service, one of Taft's conditions, his other condition—for alternative service like that for C.O. status—makes more sense.

This would, of course, be true for resisters released from prison service, especially as they'd get a credit up to two years for time served. But if another round of evasion, resistance and litigation is to be avoided, this time for those under this new compulsion, those accepted for alternate service would have to be carefully screened. The three-year requirement is not an easy one. Therefore the service opportunities must be useful and meaningful, not only for the "forgivees" but for the good of the country.

[From the Minneapolis Star, Dec. 30. 1971]

PROPOSAL BY TAFT RAISED AMNESTY INTO A NATIONAL ISSUE

(By Austin C. Wehrwein)

As the war in Vietnam grinds down and the 1972 election moves closer, an emotionally charged word is being heard more often: amnesty.

In November, President Nixon was asked at a news conference if he could foresee himself granting amnesty to any who fled the United States "to avoid fighting in a war that they considered to be immoral."

The President: "No."

About a month later, Sen. Robert Taft Jr., R-Ohio, said, as he introduced amnesty legislation: "I believe the time has come for us to turn our attention to the question of draft resisters and whether we, as a nation, are so wise, strong and charitable as to offer them an opportunity to be reunified with our American society."

Taft, who has two 17-year-old sons and whose impeccable Republican lineage includes a grandfather who was both a president and a chief justice and a senator-father who was a presidential candidate, raised the amnesty issue to a new political plane.

Theretofore it had, for practical political purposes, been pretty much a monopoly of Sen. George McGovern, D-S.D., who finds it a surefire signal for applause from liberal and student audiences, although he has not introduced an implementing bill.

Not that McGovern is any less sincere than Taft. But since McGovern is a liberal presidential candidate, his advocacy was bound to be discounted, whereas Taft's conservative background lends at least a bipartisan aspect to the debate.

McGovern has promised, if he is elected president, to grant non-conditional amnesty to draft resisters in self-imposed exile abroad, and a case-by-case study of imprisoned deserters.

Taft's bill does not cover deserters. But it would permit exiles to return, on the condition that they enlist for three years or perform alternative service for three years similar to that performed by conscientious objectors. Those in prison for draft resistance would be released on similar conditions, and time served up to two years would be credited against the three-year obligation.

Sen. Edward M. Kennedy, D-Mass., has introduced legislation to set up an amnesty study commission. Eugene McCarthy first advocated amnesty in 1968.

Other Democratic presidential contenders have been cool to it: Sen. Henry Jackson, D-Wash., is in flat opposition; Sen. Edmund Muskie, D-Maine, said amnesty talk should wait until the war is over; and Mayor John V. Lindsay of New York has ambiguously suggested that amnesty for exiles would be unfair to those who served or who took prison as their alternative. Sen. Hubert Humphrey has been silent on the issue.

Just exactly what is "amnesty"?

It comes from a Greek term meaning forgetfulness, from which we also have "amnesia," for loss of memory. But in law, the word applies to a sovereign, or a government, rather than an individual citizen. It is an act of grace, a forgetting or forgiving of certain crimes, typically political offenses.

It differs from a pardon in that it applies to groups or classifications of offenders. As we can see from the Taft bill, it can be absolute or conditional.

Technically, since Taft proposes immunity from conviction for returning exiles who meet the alternative service conditions, he and others have stretched the meaning to those not yet convicted.

McGovern has ample precedent for his promise of presidential amnesty. There have been many examples in our history, deriving from the presidential power to "grant reprieves and pardons for offenses against the United States, except in cases of impeachment" (Art. 2, Sect. 2). There is also precedent for Taft's route via congressional action.

The first use of the presidential amnesty was in 1795 when George Washington, certainly no dove on war, by proclamation granted "full, free and entire" pardons for "all treasons, misprisions (i.e., failure to prevent) of treason, and other indictable offenses against the United States" committed by participants in the 1794 Whiskey Rebellion.

* * * * *

"For though I shall always think it a sacred duty to exercise with firmness and energy the constitutional powers with which I am vested, yet it appears to me no less consistent with the public good than it is with my personal feelings to mingle in the operations of the government every degree of moderation and tenderness which the national justice, dignity and safety may permit."

Since Washington there have been, as the accompanying table prepared by the Library of Congress shows, a steady flow of presidential amnesty actions, plus some instances of War Department administrative action.

In addition to the instances listed in the table, Harding pardoned Eugene Debs and 23 other political prisoners in 1921 but issued no general amnesty.

It is noteworthy that, based on recommendations of an amnesty board, President Truman pardoned 1,523 persons who had evaded or otherwise violated the World War II draft laws. Strictly speaking, this was more like a series of individual pardons than amnesty, although the effect was the same.

In addition, Truman granted full pardons to all convicts inducted into the armed forces after July 29, 1941. This proclamation affected those with at least one year of service and an honorable discharge; it did not cover offenses after induction. The object was to reward those paroled directly from federal prisons for entry into the Army; about 2,000 men benefited.

This and other examples of amnesty shown in the compilation do not precisely match today's situation; yet, taken as a whole, they do illustrate the principle of "moderation and tenderness . . . national justice, (and) dignity" of which George Washington spoke.

AMNESTY RECORD

1795 Washington—Whiskey Insurrectionists (several hundred).

1800 Adams—Pennsylvania Insurrectionists.

1807 Jefferson—Deserters given full pardon if they surrendered.

1812 Madison—Deserters. Full pardon if they surrendered in 4 months.

1830 Jackson (War Dept.)—Deserters, with provisions.

1862 Congress—Authorized the President to etxend pardon and amnesty to rebels.

1863 Lincoln—Deserters restored to regiments without punishment (except forfeiture of pay).

1863 Lincoln—Certain rebels of Confederate states.

1865 Lincoln—Deserters who returned in 60 days.

1865 Johnson—Certain rebels of Confederate states (qualified).

1866 Johnson (War Dept.)—Deserters returned to duty.

1868 Johnson—All rebels of Confederate states.

1873 Grant (War Dept.)—Deserters. Recommended that Congress remove political disabilities.

1893 Harrison—Mormons—liability for polygamy amnestied.

1894 Cleveland—Mormons—in accord with above.

1902 T. Roosevelt—Philippine Insurrectionists.

1924 Coolidge—More than 100 deserters since WWI armistice.

1933 F. Roosevelt—1,500 violaters of espionage and draft laws, WWI.

1945 Truman—Estimated 2,000 ex-convicts, after WWII service; Amnesty Board: 1,523 pardons for draft evasion.

FINANCIAL STATEMENT OF SENATOR AND MRS. SPONG

Mr. SPONG. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the Sec-

retary of the Senate, dated January 18, 1972, wherein I certified as true a complete statement of the financial assets of my wife and myself. I have done this each year since my service in the Senate began.

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

U.S. SENATE,
Washington, D.C., January 8, 1972.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing this is to again report to you a statement of the financial status, holdings and liabilities for my wife and myself. This statement is as of January 1, 1972:

ASSETS

Cash in checking and savings accounts (after provision for Federal income tax for 1971 and other obligations) approximately	$1,500.00
Life insurance policies with the following insurers (currently providing for death benefits totaling $129,500): Minnesota Mutual Life Insurance Co.; National Service Life Insurance Co.; Aetna Life Insurance Co.; Southwestern Life Insurance Co.; Continental Assurance Co.; Federal Employees Group Life Insurance; Jefferson Standard Life Insurance Co.: cash surrender value and accumulated dividends	21,205.21
Stocks as listed on Schedule A	49,872.00
Note of Cherdel Corp. secured by deed of trust on 200 acres of unimproved property at Great Bridge Chesapeake, Va	30,000.00
Real estate as listed on Schedule B	46,350.00
Tangible personal property in Portsmouth home and rented home in Alexandria, Va., estimated	$11,500.00
1968 Ford station wagon, Country Squire	500.00
Notes receivable and accounts receivable, estimated	3,570.00

LIABILITIES

Note at First National Bank of Norfolk, Norfolk, Va	13,202.00
Note at American National Bank, Portsmouth, Va	2,000.00
Mortgage on home in Portsmouth, Va., at Norfolk Federal Savings & Loan Association	7,271.24

These figures disclose a net worth of approximately $142,023.97.

The foregoing, Mr. Secretary, I attest as being a true and accurate statement of financial holdings and liabilities of my wife and myself.

Yours very truly,
WILLIAM B. SPONG, Jr.

SCHEDULE A

Stocks:	Value
Fidelity American Bankshares, Inc., 2,332 shares per $21	$48,972
Old Town Corporation, 15 shares at $60	900

SCHEDULE B

Real Estate:	
Residence at 316 North Street, Portsmouth, Va	20,000
One-half interest in service station at Gosport Rd., Portsmouth, Va	10,000
One-half interest in three parcels of land on Sunnyside Farms, West Norfolk, Portsmouth, Va. Received by Deed of Gift dated October 1, 1971 from May Lindsay Galliford to Virginia Galliford Spong	16,350

THE LOST CHARM OF URBAN LIFE

Mr. TAFT. Mr. President, after World War I Americans sang a song entitled "How Ya Gonna Keep 'Em Down on the Farm After They've Seen Paree?" That song reflected the lure of the cities as farm boys in Iowa, Indiana, and Ohio were attracted to urban life.

In Europe, Paris, Copenhagen, and London, as well as other great cities, still have their attraction. But in the United States urban life has lost much of its charm, and the flight of the more affluent is away from cities rather than toward them.

The fact that most Americans do not want to vacation or live in our great urban areas reflects the problems which have overtaken many of our cities.

The rioting in our inner cities has ended. But the underyling problems are still with us.

Urban America in 1972 represents physicial decay, crime, congestion, and pollution. It reflects a deterioration of our social fabric, a destruction of our old neighborhoods, and a corrosion of the inner-city spirit.

Urban America has suffered from decades of neglect, and commitments that were never fulfilled.

The Full Employment Act of 1946 committed America to the principle that widespread unemployment could be overcome through Federal effort. But in our inner cities, 24 percent of teenage residents in our poorer neighborhoods were unemployed in 1970. For black youths in these neighborhoods the unemployment rate was 35.8 percent.

The National Housing Act of 1949 set our goal as "a decent home and suitable living environment for every American family." Yet, in 1966, more than 6 million housing units were "substandard" and were either dilapidated, deteriorating, or lacking in full plumbing facilities. During the last 4 years the number of housing units constructed has fallen far short of our existing and projected needs.

In New York City, the abandonment rate currently exceeds the construction rate and during the past decade housing construction in the city of New York has declined by 75 percent. If we are to renew our cities and arrest the physical, social and spiritual decay of our neighborhoods, we must embark upon a new urban strategy. This strategy should lay aside some of the nostrums of social planners and take a hard look at urban life as it is and as it ought to be.

There are those who would simply call for the infusion of billions of dollars of Federal money into our Nation's cities. I suggest, however, that city life will not improve by merely pumping additional funds into institutions, programs, and agencies, which have not been responsive in improving the quality of urban life. Instead, we must begin to reevaluate the factors which have contributed to the deterioration of urban America and make a pointed and concerted effort to arrest the deterioration which is so well under way.

First, we must come to grips with the problems of crime in our inner cities. Some people would have us believe that the words "law and order" are merely code words for racial prejudice and bigotry. I believe that the words "law and order" should properly reflect the concern which each man has for the safety of his wife on her way to the market and the safety of his children as they come home from school. Crime in the inner city is no myth and it affects black and white, rich and poor, worker and welfare recipient alike. During the decade from 1960 to 1970 our crime rate rose 144 percent and the violent crime rate increased 126 percent. In 1970, in our cities having a population over 250 thousand, the crime rate was 2½ times as great as it was in our suburban areas and over five times as great as in our rural areas. In 1970 the robbery rate in these cities was over 10 times as great as it was in our suburban communities and over 40 times as great as in our rural areas.

During that year over 100 police officers were slain in the performance of their duty.

Let us make no mistake about it, crime affects the lives of all inner city residents.

When crime forces companies to take their factories out of the inner city it means a loss of jobs to the very people who can least afford to be unemployed. When burglars rob inner city homes they steal from families which can least afford the loss. When women are afraid to shop in the inner city, they reduce the number of jobs and the tax base that the inner city needs if it is to survive. I suggest that we undertake an all-out effort against inner city crime.

We must strike at the heroin traffic which has forced so many young men into criminal paths in order to keep this crippling habit going. In some cities it is estimated that as much as 70 percent of property crime is attributable to heroin addicts. The administration has recently undertaken significant efforts to cut off the flow of heroin in the United States. It is equally important, however, for us to continue our research into heroin substitutes so that these addicts can break the chain of criminality in which they are now captive.

In addition, our police departments should be assisted in returning policemen to foot patrol in our various neighborhoods. If the police are not to be thought of as enemies they will have to renew personal contact with the residents and particularly the younger residents of our inner city neighborhoods. Years ago, everyone knew the policeman on the beat. But all too often today, policemen have become impersonal and unknown to the people they serve. We must encourage police athletic leagues and other programs that will generate a personal relationship between law enforcement offi-

cers and the residents of our urban neighborhoods.

Second, we must provide meaningful job opportunities in our inner cities so that welfare dependency is reduced. In my judgment many of the most pressing problems af our inner city have been the products of our welfare system. When men had to abandon their families in order for them to qualify for ADC we should not have wondered why there were so many broken homes. When women thought they had to have a child in order to qualify for welfare, we should not have wondered at the number of illegitimate births and unwanted children. When men are forced to turn to welfare rather than to jobs, we should not wonder at their loss of self-pride as the family breadwinners.

The disparity of welfare payments among States has contributed to the influx of the poor from southern and rural areas to our inner cities. This has in turn compounded the problems of crime, housing, and education. Today, one person in every five in the city of Boston is on welfare and welfare has become a way of life for too many Americans. If we are to reduce the dependency on welfare we must not only reform our welfare laws, as the President is attempting to do through H.R. 1, but we must make job opportunities a reality. We must provide incentives for industry to train young men and women on the job. This is far preferable to job corps training centers where young men and women may be trained for jobs that never exist.

The Emergency Employment Act which we passed in this session of the Congress distributes Federal funds to our States and cities so that they can offer jobs to the unemployed where joblessness is most severe. I have long believed that it is far better to give people jobs where they can do productive work and go on to higher paying positions than keep them chained to welfare.

We must strike down every vestige of racial discrimination whether it be practiced by employers or unions. On March 1, 1971, Time magazine reported the following example of discrimination as practiced by a plumbers' union.

> In order to gain admission the applicant is asked, among other things, the relationship of Shakespeare to Othello, Dante to the Inferno, Brahms to music, and Whitman to poetry. He must understand such words as debutante and modiste, know that Dali is a painter and verity is the opposite of myth. Only after having established such credentials is a man judged to be qualified under the union rules to become an apprentice steamfitter in New York. In the past, the test has weeded out 66 percent of the nonwhite applicants and only 18 percent of the whites—a fairly effective method, according to charges filed last week by the New York State attorney general's office, of preserving the union's whiteness. On this particular test, one of four an applicant must pass, there is not one question about the relationship of monkey wrench to pipe."

Third, we should not try to homogenize the American people. As important as it is for all Americans to have upward mobility, I believe that we should undertake new efforts to preserve our ethnic neighborhoods and our neighborhood schools. We should stop trying to think that neighborhoods are improved with the bulldozer and the bureaucrat. Far too many neighborhoods have been "redeveloped" into expressways and parking lots. Far too frequently high commercial rents have driven out old family restaurants, old book shops, and other stores that give a neighborhood its character. In far too many instances we have "renewed" neighborhoods to the point where you cannot find a place to play ball or buy a beer. In far too many instances we have settled for terrible architecture with dozens of apartment houses looking like the prisons that they sometimes are. The frustration in many black and ethnic neighborhoods with this type of so-called urban renewal was noted in the report of the Commission on the Cities in the 1970's, which spoke of the concerns of our blue collar neighborhoods:

> It is typically their neighborhoods that get "blockbusted." It is typically the schools their children attend that suffer the most acute social tensions and conflicts. It is their cherished traditional notions about authority and responsibility and respectability that the crime wave and the sexual revolution and the drug culture most brazenly flout.

When we redevelop neighborhoods we must maintain a sense of community and a sense of neighborhood. Urban renewal should not be simply a physical renewal. You cannot repackage the slums. Neighborhood renewal must take into account the hopes, the fears, the dreams and the life style of the people who live in these neighborhoods or otherwise it will be a failure. When we rebuild a neighborhood we must have mixed use so that women can walk to the market and men can walk to their local tavern and not find themselves in a steel and concrete jungle from which the more affluent would wish to escape.

Our public housing policies should be changed so that we will not again build these large public housing projects. The program of leased housing, which disperses public housing families throughout an entire community is the far preferable approach. This is working successfully in many Ohio communities and I believe that it has distinct advantages over the large public housing complex. With leased housing we can provide more units than we could through Federal ownership. With leased housing the units remain on the tax duplicate and pay their proper share for the support of schools and other community services. Most important leased housing eliminates the social and psychological stigma of coming from "the project". Leased housing tenants are not all put together like cattle in pens but are dispersed throughout the community.

With leased housing, children are not branded as residents of public housing and the economic and social differentials are obliterated from public view. In one Ohio county 97 percent of leased housing tenants live in new homes. These homes resemble other new homes in the same neighborhood and in most cases no one can tell which families are public housing and which ones are not. This leased housing approach which I have firmly supported for many years should be expanded and become our dominant urban housing strategy.

Fourth, we must restore the cultural and commercial vitality of our inner cities. In the east side of Washington there is a place called the D.C. Farmers Market. This is a large building owned by the government of the District of Columbia, which leases out a great number of booths and stalls to individual farmers and merchants to sell their wares. On any weekday, and particularly on Saturday, this market is alive, as rich and poor, black and white, young and old mill about and shop for meats, fish, groceries and flowers. It brings the community together and it gives the east side of Washington a sense of identity. Recently it was proposed to tear this building down and replace it with a so-called community center, which presumably like most community centers, would have been a large empty room with a juke box in one end. Fortunately, this plan was dropped when it was realized that they had the perfect community center right there, as old as it might be. I suggest that it would be very inexpensive but very important to our neighborhoods in other cities if similar markets could be constructed that would bring together small merchants who cannot afford the high rent of shopping centers.

Recently, I have introduced legislation that would create another kind of community center. Under this bill disabled Americans would be brought together from each neighborhood to a common place where they could receive a hot meal and have social contact with their friends. A similar bill has passed the Senate for the aged. Neighborhood centers such as these will perform an important function in not only providing nutrition to those who may not be able to adequately feed themselves but also open the windows to a much brighter world to people who would otherwise be shut in.

The President's proposals for health maintenance organizations afford similar opportunities for neighborhood health centers where people can come for preventive care. If we are interested in preserving our neighborhoods we can do a great deal to renew their sense of community by providing neighborhood health care, neighborhood nutritional programs for the elderly and disabled, and neighborhood markets for our inner city residents.

There are a great number of other initiatives which I believe we can and should take to improve the quality of life in our inner cities, but I will only briefly mention a few. We should seriously question whether or not some of our cities are not too large to be properly administered. Perhaps it would be better to follow the example of Greater London which has many autonomous local governments. In this way local government can be more responsive to neighborhood needs than large city governments such as New York and Los Angeles.

We must put greater emphasis on public transportation so that automobiles, expressways, and parking lots do not choke off inner city life and destroy our old neighborhoods through which these freeways pass.

We should improve our neighborhood schools so that middle income families do not have to flee to the suburbs in order to get away from the school system.

We should undertake imaginative programs of aesthetic zoning.

The planting of trees along our streets does a great deal to make congested urban areas seem more livable and unemployed men can be used to maintain neighborhood parks.

Finally, it is important that we back up these initiatives with new resources so that local leaders can solve the unique problems of each community. In this regard I strongly support the President's revenue sharing program which would bring 213 million new and unrestricted dollars to local and State government in Ohio. Because each community is unique, local mayors and councilmen should have the resources to improve the life of their own cities rather than fitting their programs around the Federal categorical grants which may be rather inappropriate to local needs.

Above all, we must acknowledge that urban America involves a challenge to all of us. It means that we must lay aside some of our personal financial interests and work for the betterment of our communities. It will require the support of business, the support of labor, and the support of the neighborhoods.

I am not ready to give up on our inner cities. The future of this country is largely dependent upon the quality of our urban life and if the quality of that life improves it will only be because of the dedication, the energy, and the commitment of all of us.

ANALYSIS OF GROWTH OF EMPLOYMENT IN 1971

Mr. PROXMIRE. Mr. President, it seems to be the popular assumption that 1971 was a year of economic recovery and that, helped along by the new economic policy, we now stand on the threshold of a golden era of increased prosperity for all.

Naturally I wish that this were the case. But the facts do not support the theory. The facts show that the economic gap to be closed before we get back to full employment actually widened in 1971. The facts also cast doubt on the happy predictions for 1972.

An article written by Gardiner Means, published in last Saturday's Washington Post, spells out some of these facts. I ask unanimous consent that Dr. Means' careful and lucid analysis of the growth of employment in 1971 be printed in the RECORD at the end of my remarks.

Dr. Means' article examines the differences between our two basic sources of employment statistics. One source of employment data is the interviews conducted with individual households. This is called the "household series." A separate set of estimates is derived from employers' payroll records. This is called the "payroll series."

As Dr. Means points out, the payroll data show an actual decline in industrial jobs between January and November of 1971. I might add that this decline continued in December. The only substantial growth in payroll employment has been in the service sector.

By contrast, the household data show a very substantial increase in employment over the same period. I have for some time been puzzled by this large divergence between the two sources of employment data. When asked about this at Joint Economic Committee hearings, the Commissioner of Labor Statistics, Mr. Moore, has frankly confessed that he, too, has been puzzled.

In his article, Dr. Means advances a possible explanation. The household data, he points out, include the self-employed, and they are included even if they worked only 1 hour during the survey week. Many of the thousands who have been unable to find payroll employment may have turned to self-employment as salesmen, consultants, seamstresses, lawn mowers, or snow shovelers. These newly self-employed constitute a "holding pool" of persons who would take full-time payroll jobs if they could find them. Past experience confirms the existence of such a holding pool, which fills with depression and empties with prosperity.

Thus the recent divergence between household and payroll employment estimates is a sign not of recovery, but of stagnation. This picture of stagnation is reinforced by the GNP estimates. The GNP estimates for the second and third quarters of 1971 have been revised downward since Dr. Means wrote his article last week. The picture is even bleaker than he paints it. The annual growth rate of real output was only 3.4 percent in the second quarter and fell to 2.7 percent in the third. This is far, far below the 4 to 4½ percent growth rate needed to prevent further increases in unemployment. It is even farther below the 5½ to 6 percent so rosily predicted for 1972.

If we are honest with ourselves, I think we must all join with Dr. Means in concluding that progress in business recovery during 1971 was a myth. Moreover, we must be equally candid in facing up to the very real possibility that, in the absence of new positive action to provide jobs, 1972 may be very little better.

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

WAS THERE PROGRESS IN BUSINESS RECOVERY IN 1971?

(By Gardiner C. Means)

The cheering section of the present administration is constantly pointing to the increase in employment and the growth in the gross national product as evidence of substantial progress in business recovery. It talks about 1971 as "a good year for the economy." But examination of the official data shows, not business progress, but business stagnation. Instead of substantial increase in business payrolls there has been only a minor increase while most of the increase in persons employed has been either in government or in what can be called a "holding pool" which builds up as people take on makeshift jobs while waiting to obtain a proper job.

There is no question that there was a quick recovery from the auto strike in the fall of 1970. By January 1971, auto production had doubled over the low point of November and was running above the seasonally adjusted rate for the first half of 1970. But this was recovery from the strike, not recovery with respect to the decline in business activity which had been going on for more than a year. The real question is whether there has been any business recovery during 1971.

The seasonally adjusted official figures for industrial payrolls show a decline of 328,000 jobs between January and November. These figures are consistent with the change in the index of industrial production which rose 1.6 per cent while productivity rose by more than double that amount. As far as industrial employment is concerned, the recession has continued.

Construction has shown some increase in employment, but the sharp rise in housing has been largely offset by the decline in other types of construction. The official figures for contract construction show a rise of 30,000 in payroll jobs. The dollar figures for "new construction put in place" reflect little increase when corrected for the large rise in construction costs.

The only substantial increase in payroll jobs came in the service categories. The official figures thus show a new increase in roll jobs from January to November for the total of "wholesale and retail trade," "finance, insurance and real estate" and "other services."

For the private sector as a whole, the official figures thus shows a net increase in private payroll jobs of only 231,000 from January to November. In the context of approximately 5 million persons actively looking for jobs and unable to find them, this increase of four-tenths of 1 per cent is a pitiful business performance. At this rate it would take nearly six years for the private sector to absorb one year's normal growth in the labor force. The increase was less than the 282,000 reduction in the armed forces in the same period. The private sector of the economy is not even running fast enough to stay in the same place.

During this period, employment in agriculture dropped by 20,000. No figures are available for domestic service but the change, if any, is more likely to have been down than up. Government payrolls increased by 230,000, but one does not look to government payrolls for evidence of progress toward business recovery.

What, then, is the meaning of the 1,158,000 increase in the total number of persons employed? Taking account of the figures for government and agriculture, this would represent an increase of approximately 950,000 instead of 231,000 in the private sector, a difference of more than 700,000.

The official figures do not allow a precise explanation for this difference. But a major part appears to lie in the category of the self-employed who are included among the persons employed but are not on payroll jobs.

A big increase in self employment is difficult to explain if one thinks in terms of an expansion in business demand but is easily explained if one thinks of people becoming temporarily self-employed because they cannot find normal jobs. The army officer, mustered out, who is told he is over-equipped for this job and under-equipped for that, may take to selling encyclopedias or real estate on commission as a temporary stop-gap. An engineer, no longer designing airplanes, may set himself up as a consultant. A factory worker who loses her job may take in sewing or typing or start a beauty parlor in her home. A man out of work may obtain some income from mowing lawns or shoveling snow. Since a person is classed as self-employed if he or she obtained self-employment income from working one hour or more during the census week, it is not difficult for the number of self-employed to rise when jobs are scarce and fall when jobs are plentiful.

Such a rise in employment when there are around 5 million unemployed should not be taken as a sign of progress in business recovery but rather as a sign of stagnation.

This makeshift employment constitutes a sort of holding pool which fills with depression and empties with prosperity.

The presence of such a holding pool is confirmed by past experience. Historically, the gap between the number of persons reported employed and the number of reported payroll jobs has tended to widen when jobs are scarce and narrow, when jobs are plentiful. For example, in the recession from 1957 to 1958, the difference between the two figures increased by over 800,000 and by 1,690,000 from 1969 to November 1971. Conversely, in the recovery from 1950 to 1951 the gap was reduced by 1,226,000 and by 1,360,000 in the expansion from 1964 to 1966.

The evidence of stagnation is reinforced by the data on gross national product. The increase in the latter at the annual rate of 4.3 percent, measured in constant dollars, is almost wholly accounted for by the increase in national productivity per man-hour which has been at the annual rate of 4.2 per cent. It reflects greater output from essentially the same body of workers, but provides no evidence of progress in business recovery.

The monthly data on total personal income say the same thing. Between January and November the dollar figure for personal income went up 5.5 per cent but the consumer price index rose 2.9 per cent. This left an increase in real personal income of only 2.6 per cent, hardly enough to buy the extra product arising from increased productivity.

When one considers the very small increase in payroll jobs in the private sector, the evidence of a large rise in self employment in the holding pool, an increase in total production scarcely greater than the increase in productivity, and a rise in personal income insufficient to purchase more than just the increase in output due to greater productivity, one finds only evidence of continued stagnation. One must conclude that progress in business recovery during 1971 is a myth. From the point of view of the economy as a whole, 1971 was not one for cheering or even complacency. It was a poor year.

TECHNOLOGY AND GOVERNMENT

Mr. DOLE. Mr. President, on behalf of the distinguished Senator from Tennessee (Mr. BROCK), I ask unanimous consent to have printed in the RECORD a statement by him entitled "Technology and Government."

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

TECHNOLOGY AND GOVERNMENT

Well over a year ago, the President convened a panel of public and private persons to develop recommendations for utilizing the nation's technological capabilities to solve this nation's social problems and improve its competitive position in world markets. Recent articles in both the Wall Street Journal and Business Week Magazine have indicated that these recommendations will be fully revealed to the Public during the President's State of the Union message. Just what final form this program will take is of great significance for the country.

The development of new technology and its marketing, nationally and internationally, has provided the base for the strength of economic growth in the post war II period. New technology has developed from many sources, as fallout from the wartime research and development, as utilization of technology developed elsewhere but first introduced on a wide scale in the United States—Wherever it has developed however it has occurred less through the massive application of funds than through the combination of policies and persons evolved in a competitive and free economy. Technology like new ideas cannot be programmed; it originates in small firms, as well as large ones, its adoption in a wider market is dependent on only one element—the ability of another individual to recognize new potential uses and market the product.

The success of any new program to bring about a faster rate of technological change cannot be mandated by issuing directives that specify achievement of a goal in accordance with some predetermined time table; the program will also come up short if it attempts to achieve its ends by way of fiscal grantsmanship, both of these two roads have been trodden unsuccessfully in the past.

What is needed now is the evolution of new forms of cooperation in sharing the costs of new technology; what is needed is not the creation of a new Super agency; what is needed now is a program to recognize potential break through areas and assist them, without competing with the private market; what is needed is not a screening agency for all new ideas; what is needed now is a pride in technological educations lost in our most recent obsession with only the ill side effects of technology, what is needed is not a crash program of federal scholarships in engineering.

Most importantly, what is needed is wisdom in experimenting in the widest possible way with bringing about new technology and in adopting successful experiments and throwing out the failures. Whatever the President's program is, it will need the most immediate support of all sectors of the Nation. In technology the necessity of playing catch up ball stands its greatest chances for success when you catch up at the earliest possible moment.

FINANCIAL STATEMENT OF SENATOR ALLEN

Mr. ALLEN. Mr. President, prior to coming to the U.S. Senate on January 3, 1969, I publicly stated that I would, each year during my service in the Senate, file a statement of my financial condition with the Secretary of the U.S. Senate, the secretary of state of the State of Alabama, and the probate judge of Etowah County—my home county—Alabama.

I have pursued this policy and have filed statements of my financial condition at the end of 1968, 1969, and 1970. In addition to such filings, I have placed in the CONGRESSIONAL RECORD copies of my 1968, 1969, and 1970 statements. I ask unanimous consent that my 1971 statement be printed at this point in the RECORD. The statement sets forth my reason for making these statements public.

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

FINANCIAL STATEMENT

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct statement of my financial condition as of December 31, 1971:

ASSETS

Home at 1321 Bellevue Drive, Gadsden, Ala.	$32,500.00
Furniture, furnishings, books	5,000.00
Automobile	2,500.00
State of Alabama; city of Huntsville, Ala., bonds at market	26,000.00
U.S. savings bonds, at cost	600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—Cost $47,700 less $1,533.33 depreciation	46,166.67
Bank accounts—exact	2,453.46
Payments into Civil Service Retirement account—exact	9,818.96
Life insurance surrender value (all but $1,000 is term)	100.00
Total	125,139.09

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Va., to First State Bank of Altoona, Ala., and Exchange Bank of Attalla, Ala., monthly payment loan	39,200.00
Total	39,200.00
Net worth	85,939.09

I am not an officer, director, stockholder, employee or attorney for any person, firm, company, or corporation, nor am I a member of any law firm, nor am I engaged in the practice of law in any form.

My income is limited to my Senate salary and interest on assets listed above. During 1971 I received no honoraria or expense payments or reimbursements of any sort. I have never during my service in the Senate, or at any time prior thereto, accepted any such honoraria or expense payments or reimbursements of any sort, nor do I have a committee or person designated to receive contributions, political or otherwise.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities. A similar statement will be filed each year during my service in the Senate.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past years' net worth:

End of 1968	$92,984.81
End of 1969	87,750.00
End of 1970	87,243.34
End of 1971	85,939.09

This January 17, 1972.

JAMES B. ALLEN.

Sworn to and subscribed before me on this 17th day of January 1972.

VALDA S. HARRIS,
Notary Public.

PRESIDENT NIXON'S SPACE SHUTTLE DECISION

Mr. CURTIS. Mr. President, on January 8, 1972, the New York Times published an editorial on President Nixon's decision to proceed with the development of a space shuttle—an entirely new and relatively low-cost system of space transportation.

I disagree with some aspects of this editorial. However, the economic and technical reasons for supporting the space shuttle are well stated. For example, the New York Times declares:

The economic revolution resulting from this new capability would permit the opening of numerous frontiers of space for human benefit. Whether one thinks of earth surveillance projects for ecological, agricultural, forestry, fishing or other purposes, or of the capability of repairing communications or navigational satellites in orbit, or of launching unmanned planetary probes more cheaply

than is now possible, or even of using the weightlessness and vacuum of space for manufacturing purposes, the prospects would all be greatly enhanced by the new space economics flowing from a shuttle.

The shuttle will open the use of space for the practical benefit of all mankind. It will better enable man to survey the earth's resources, monitor and predict weather, improve worldwide communications, develop improved vaccines and manufacturing processes, enlarge our knowledge of the earth and our solar system, and perhaps even harness the sun's energy as a source of pollution-free energy.

The Congress gave strong bipartisan support to the shuttle proposal in NASA's budget for fiscal year 1972, with the clear understanding that development would proceed at completion of the studies then underway. For the good of the Nation, the project must now be allowed to proceed as quickly as possible.

I ask unanimous consent to place the New York Times editorial in the RECORD.

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

INVESTMENT IN THE FUTURE

President Nixon has made a wise decision in authorizing the National Space and Aeronautics Administration to proceed with development of the space shuttle. We recognize that many will consider it another grave distortion of national priorities to divert scarce Federal funds to such a venture when so much remains undone in meeting the needs of the cities, the environment and the poor. Yet we are convinced that the necessary money can easily be taken from the defense budget without blocking action on revenue sharing, welfare reform and other neglected social programs.

The space shuttle represents a major investment in the future. If implemented successfully, it will radically alter the economics of space activities and provide dividends that should continue for decades to come. More immediately, appropriation of the needed sums—averaging almost a billion dollars annually for the next six years—will revitalize a major branch of American technology which could literally disintegrate if no such project were undertaken this decade.

Anyone who has ever watched a meteor flash along its fiery path through the night sky has observed the natural phenomenon that causes the problem the space shuttle is designed to solve. An object—natural or manmade—which falls from space to the earth must first pass through the atmosphere. In doing so, it heats up to temperatures of thousands of degrees and normally is consumed in whole or in part before reaching earth's surface. In the returning Apollo capsule, this problem is met by a protective heat shield which chars in effect, but saves the capsule from conflagration. Nevertheless no manmade vehicle yet made is capable of reuse for more than one voyage into space.

The space shuttle is basically intended to be a reuseable space vehicle, so constructed that it could land unharmed after the fiery test of atmospheric passage, to go up again soon. If successfully built, this reusable shuttle would cut the cost of putting a pound of matter into space from $600 or $700 to about $100.

The economic revolution resulting from this new capability would permit the opening of numerous frontiers of space for human benefit. Whether one thinks of earth surveillance projects for ecological, agricultural, forestry, fishing or other purposes, or of the capability of repairing communications or navigational satellites in orbit, or of launching unmanned planetary probes more cheaply than is now possible, or even of using the weightlessness and vacuum of space for manufacturing purposes, the prospects would all be greatly enchanced by the new space economics flowing from a shuttle. Moreover post-shuttle development would almost certainly reduce the cost of putting material into space significantly below $100 a pound by the 1980's. In short, the space shuttle has the possibility of beginning for space travel what the model T Ford did for the automobile age.

The space shuttle is far less expensive than the Apollo Project, and, fortunately, is not being launched in the atmosphere of Cold War hysteria that attended the birth of the lunar landing effort. On the contrary, NASA has already stated publicly it would welcome cooperation on the space shuttle from other industrially developed nations, including the Soviet Union. The argument that the space shuttle is simply another SST boondoggle has little validity. The potential benefits are far greater, and the space shuttle presents none of the environmental problems that counted so heavily against the supersonic transport.

Many technical problems still block the way to the space shuttle, as NASA fully realizes. And it is imperative that Congress monitor the project to make sure that it does not experience the horrendous cost overruns that marred the F-111 and C-5A. In these days of scarce contracts and financial stringency, both NASA and the aerospace industry have every incentive to make this imaginative project a reality in the most efficient and economic manner possible.

DISCRIMINATION AGAINST WOMEN IN EDUCATION

Mr. McGOVERN. Mr. President, discrimination against women in education is a stark reality which few women can escape. If she chooses to pursue higher education, a woman must face discriminatory college admissions policies. She will be less likely to receive fellowships and scholarships than her male counterpart. And once she has graduated from college, a woman can expect to earn only as much as a man with an eighth grade education.

The following facts are a national disgrace, a bitter truth which must be confronted and challenged:

While 70 percent of all public school teachers are women, in 1966 only two women served as superintendents in the Nation's 13,000 school districts.

Only 9 percent of all full professors are women, and they earn from $500 to $1,000 per year less than male professors.

The proportion of women attending graduate schools today is less than in 1930. Women are only 6 percent of all engineering students, and 8 percent of all medical students.

Women possess the same brainpower and innate abilities as men but are not allowed to use them fully. We cannot afford to continue to waste our enormous fund of female talent and experience. Let us begin now by declaring a firm commitment to ending sex discrimination in our Nation's educational facilities.

This week's issue of Science contains two excellent pieces on disrimination against women in our academic institutions and weak, ineffective tools the Federal Government is using to combat it. I hope that Senators will read this material, which appears in a publication devoted to the advancement of science. I ask unanimous consent that the two articles be printed in the RECORD.

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

WOMEN IN ACADEMIA

During the past several years higher education has experienced a series of crises. The newest, and in the long term perhaps the most significant, development is the issue of discrimination against women. Militant women's groups have been organized, and they have brought charges against various institutions. The federal government has provided a powerful tool for such groups in the form of a 1968 Executive Order that forbids discrimination by federal contractors on the grounds of sex. Using provisions of this order, individuals and women's groups have filed more than 350 formal charges against some of the greatest of our universities and state systems, and they are winning.

Male chauvinists would like to think that the current uproar is the work of a few militant troublemakers. They may hope that, if they are cautious and patient, the storm can be counted on to dissipate. The odds are, however, that we are witnessing a major movement that will persist until it has brought forth substantial changes, not only in the universities, but also in the professions.

In part the movement will persist because substantial injustices have been perpetrated. There has been massive discrimination against women in academia. In part the movement will persist because woman's role in the world is in the process of change. If society frowns on childbearing, how are women to occupy themselves constructively? What can they do to lead significant and interesting lives? Increasingly women are turning to employment of some kind.

Today women make up about 37 percent of the labor force. But women hold only a small portion of the desirable positions. For example, in the United States, only 2 percent of dentists and 7 percent of physicians are women. In contrast, in Denmark, 70 percent of dentists are women, while in Germany 20 percent of physicians are women. The limited presence (about 2 percent) of women as full professors in our major universities is particularly striking. This compares with an annual doctorate production of about 12 percent women.

In 1930, some 28 percent of doctorates were won by women, and at many institutions the proportion of women faculty members was higher than today. These were times of a comparatively low birthrate. Later, after World War II, having babies became the thing for young women to do. Correspondingly, women's participation in graduate training dropped.

At present, although a larger proportion of girls than boys complete high school, only about 50 percent of girls go to college as against 80 percent of boys. Between 75 and 90 percent of the well-qualified students who do not go on to higher education are women. This represents a large loss of talent for the nation and often leads to personal dissatisfactions that occur when intelligent people must work at unchallenging jobs.

With universities as dependent as they are on government contracts, and with the government determined to enforce legal constraints against discrimination, university administrations must make some major changes in their personnel and admissions policies. But there is more behind the current drive than law or militant women's groups. Transition from a time in which babies were the thing to an era of zero population growth must have profound consequences on the relations between men and women and on the structure of society. We

have only begun to see some of the effects.—Philip H. Abelson

(The statistics in this editorial are taken from a speech given by Alan Pifer, president, Carnegie Corporation of New York, to the Southern Association of Colleges and Schools, Miami, Florida, 29 November 1971.)

UNIVERSITY WOMEN'S RIGHTS: WHOSE FEET ARE DRAGGING?

When the Department of Health, Education, and Welfare (HEW) hand-delivered to Columbia University's President William J. McGill on 4 November 1971 a letter that threatened cutoffs of federal funds to Columbia if the university did not provide certain data on hiring and promotion of women and minorities, it seemed to many that HEW was setting the stage for a crackdown on the issue of discrimination in universities.

The move against Columbia was prompted, like many of HEW's recent university investigations, by charges filed in January 1970, by the Women's Equity Action League (WEAL). Since then, WEAL's head, Bernice Sandler, has organized the filing of charges of alleged discrimination at about 260 campuses.

The WEAL charges have sparked a lot of reaction. Increased activity by women's liberation advocates, an appearance by Sandler on the NBC *Today* show, and several HEW investigations. Sky-high hopes have been raised concerning the prospects for proportional representation of minorities and women on faculties, equal admission of women to all colleges, equal consideration for financial aid, and the like. Indeed, starry-eyed proponents of women's rights have promised that their movement could ultimately transform the university scene far more than has the campus-based radical antiwar movement of the last 5 years.

But the feminists may be frustrated by HEW's performance. Already, some are critical of civil rights chief J. Stanley Pottinger for not enforcing the rules. Pottinger and HEW staff reply that the program of enforcement is only just getting under way.

But despite the fact that Executive Order 11246, as amended, has been on the books for 4 years saying "the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin," to date no university contract has been terminated by HEW, and no hearings have been held concerning termination. Eleven colleges and universities have, however, had "holds" placed on new contract signatures, and about the same number have drawn up affirmative action plans.[1]

Among HEW staffers, university spokesmen, and feminist critics, there is some consensus on the causes of HEW's sluggish performance in university civil rights. Lack of staff is the first reason given by all. To this the critics add HEWs alleged reluctance to use the sanctions at its disposal. A related problem has been that of extracting vital employment data from recalcitrant universities. And even the affirmative action plans, required by executive order, fall below some expectations. The 12-page letter which HEW delivered to Columbia, hitherto confidential but obtained by *Science*, offers another reason for delay; the university has been almost perverse in not complying with government requests.

In HEW's arsenal for insuring that the 2300 universities with federal contracts do not discriminate, the principal weapon is "contract compliance." Technically, if a government contractor is found out of compliance with federal rules in one part of his organization, then all federal funds flowing to the whole institution may be withdrawn. However, with the prohibition on discrimination by federal contractors, it hasn't worked that way.

To actually cut off, or "terminate," ongoing contracts to universities has proved unbelievably difficult. The government must investigate, make a responsible legal case that violations exist, and hold a due-process hearing. This procedure is designed to protect the rights of the contractor, but in fact it is so clumsy that HEW has never used it. To date no university contract has been terminated, nor have any hearings been held, despite the fact that, according to one staffer, "we find noncompliance at virtually every campus we visit."

Short of starting to cut off contracts and renewals, HEW can, and has, put a "hold" on the signing of new contracts with 11 colleges and universities.[1] This is a quicker, simpler, enforcement mechanism, and many college administrators vouch for its effectiveness in spurring them to action. Critics say that these holds are not enough.

For years, HEW had a staff of 17 to insure nondiscrimination in some 2000 universities, three times that number of hospitals, and hundreds of HEW-funded construction projects. Now, after what top government observers describe as Herculean efforts by the Office of Management and Budget to resist federal personnel cuts and budgetary belt-tightening, HEW has slots for 96 contract compliance investigators—and most of them are filled. The investigators are spread out over nine regional offices and are swamped.[2] One regional civil rights chief says "We could use all our staff just to answer the mail."

Ninety-six people investigating 2300 colleges and universities might be viewed as inadequate, yet in recent months, several memos and directives, says John L. Wilks, director of the Office of Federal Contract Compliance (OFCC), have instructed all agency contract compliance staffs, including HEW's to investigate federally funded construction projects.

In HEW, this means that the 96 staffers, many of whom in the last year have been learning the ruses of university personnel offices and the Byzantine maneuverings of faculty promotion schemes, are now attending training sessions dealing with carpenters' and plumbers' unions. Wilks admitted to *Science* that HEW's contract compliance efforts "because of a lack of staff have been bogged down" already. But it would seem that to reassign them to the construction industry would add to their chores in such a way as to make the shortage almost ludicrous.

Some officials are willing to admit, privately, that, in the silent language in which bureaucrat and policy-maker often communicate, to assign a staff of 96 to achieve such sweeping reforms is a signal that perhaps their goals aren't so important anyway.[3]

That the program is understaffed is the one proposition on which both the feminist critics and HEW officials, including civil rights chief J. Stanley Pottinger, all agree. On the question of HEW's use of the legal sanctions it wields—contract termination and holds on the signing of new contracts—there is considerable disagreement.

Pottinger told *Science* that his office has used adequate sanctions in every case where violations of the Executive Order have been found to exist. Speaking of contract termination—a device that his office has never yet used on a college or university—he said, "termination is like execution. You wouldn't find a serious reporter trying to measure the effectiveness of a law enforcement program by how many executions had been carried out. You would measure it by how much crime is or isn't taking place."

However, according to the government's civil rights watchdog, the U.S. Commission on Civil Rights, "use of sanctions and the collection of significant racial and ethnic data," are "essentials" of a "successful contract compliance program." Indeed, advocates of civil rights in other fields, such as school integration, often vouch for the need to use sanctions and to use them frequently enough to make the government's intentions of ending discrimination credible.[4]

Feminist critics of HEW's role say that HEW has not been tough enough. "They just don't enforce the order," says Sandler. Sylvia Roberts, a lawyer for Ina Braden, a University of Pittsburgh assistant professor whose claim of discrimination was thrown out by the local HEW office, says of HEW, "They seem to be totally unwilling to take one institution, investigate it, issue holds on contracts, and really follow through. We cannot look to HEW to do this for us." As a result of HEW's treatment of her case, Braden is now pressing her claim in court.

Columbia's case shows how the use of sanctions and the collection of data—both "essentials" for good contract compliance—have become so intertwined and tangled that discrimination just continues.

Columbia and HEW began negotiating in January 1969. Three years later, the university still has no acceptable affirmative action plan.

The letter from HEW to Columbia is prin-

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[1] The 11 colleges and universities are Harvard, University of Michigan, Columbia, Cornell, and Duke, all with funds actually delayed, and St. Louis University, Yeshiva, University of Rochester, New York University, University of Pittsburgh, and Northwestern with holds, but no funds delayed. (Data from HEW.) In 1970, before the university women's rights movements developed, the U.S. Commission on Civil Rights attacked government contract compliance programs as being inadequate. Mainly these were efforts by the Department of Defense to get contractors to use the same rest rooms for blacks and whites, or adequate housing for all employees. Two prominent cases were the 1968–69 negotiations with Dan River Mills, Burlington Industries, and J. P. Stevens Co., Inc., charged with reserving better-paid jobs for whites, and segregated housing, and McDonnell Douglas Corp., which signed a $7.7 billion contract with DOD although there was evidence of discriminatory practices, and violation of regulations. See "Federal Civil Rights Enforcement Effort" submitted to the President, September 1970, by Theodore M. Hesburgh, chairman, and the U.S. Commission on Civil Rights, pp. 42–85, for a general history of U.S. contract compliance efforts by the federal governments.

[2] Throughout government, the number of authorized posts for contract compliance staff has risen from under 400 to 1500. This miracle is said to have been wrought by George P. Shultz, director of OMB and former Secretary of Labor. Shultz is said to have a personal commitment to the cause of civil rights, and observers agree that he in fact exercises more influence over federal contract compliance—particularly the recent boom in staff positions and high level concern for construction trade discrimination—than does Pottinger or his counterparts in other branches of government.

[3] The New England regional office, for example, has six staffers to look at several hundred colleges and universities for six states. Boston office spokesmen estimate they need ten times that number to take care of New England's plethora of educational institutions. But recently, the staff was given a series of training sessions on how to investigate the construction industry. Staffers there and elsewhere simply question whether the government is serious.

[4] An excellent description of how this process works is contained in a book written by Pottinger's predecessor, Leon E. Panetta, *Bring Us Together: The Nixon Team and Civil Rights Retreat*, Leon Panetta and Peter Gall (Lippincott, New York, 1971). Panetta was frequently described by the press as a "liberal" on civil rights. Pottinger rarely has been awarded this label.

cipally a chronicle of the negotiations between HEW and OFCC officials and Columbia since January 1969. It is 12 pages long, addressed to Columbia President McGill, and signed by Pottinger. It enumerates the reasons for the hold now placed on new contracts, and the fact that HEW lawyers will proceed toward a due-process hearing if the university continues with its practice of noncooperation.

The chronicle of negotiations shows that it was not only HEW's feet that were dragging: Columbia's administration stalled on a number of key requests—mainly that of data collection—from Joseph F. Leahy, chief of HEW's New York office of civil rights, contract compliance branch. Some samples:

March 4, 1969: Mr. Leahy arrived on the campus to conduct the compliance review and found that only three of the 12 items which he had requested in his 31 January letter were available.

Later:

March 5–26, 1969: Mr. Leahy made numerous telephone contacts with Dr. Ralph Helford, Vice President for Special Projects, in an attempt to set up a meeting with University officials, including the Acting President, Dr. Andrew W. Cordier. . . . All these efforts were unsuccessful.

According to the letter, by November 1969, after several HEW requests for an affirmative action plan:

Mr. Leahy contacted the university by telephone to ascertain the status of the university's affirmative action program and was advised that it had not been developed.

A year and a half later, in February 1971, when HEW investigators arrived on campus to view the data that they had requested, Columbia vice president Charles Goodell handed them a computer printout of all employees, but without a breakdown by race, sex, or organizational unit.

At the conclusion of the letter, Pottinger informed McGill that the second affirmative action plan submitted in July, 6 months later, still lacked basic data and analyses of current employment. Pottinger called the years of delays, "unexplained" and "exorbitant."

Yet, even after all these negotiations about data, when HEW put the 4 November hold on signing of new federal contracts, President McGill, according to the *New York Times*, got up before the university senate and said that Columbia's "problem is not that we are charged with discriminating—we are not charged with discrimination and we do not discriminate. . . . Columbia's problem is that it is difficult to prove what we do because it is exceedingly difficult to develop the data base to show, in the depth and detail demanded, what the university's personnel practices in fact are."[5]

HEW contract compliance officials explain that they cannot responsibly proceed to cut contracts or hold up new ones without a defensible, mathematical proof that a pattern of discrimination exists. However, in Columbia's case, the university, by arguing that the data base is very "difficult to develop" in "adequate" "depth and detail" (or by arguing that its personnel files are confidential, as Harvard attempted to do in 1970 when HEW demanded similar data), university administrators can effectively thwart HEW from imposing its sanctions.

Pottinger told *Science* that the sanctions have been applied whenever HEW has been able to make a case, but the principal problem has been getting the information. He added that he felt the information issue is "ultimately a red herring," since the universities are legally obligated to submit the data HEW requests. However, so far, the information red herring has proved to be a rather big fish.

[5] *New York Times*, 6 November 1971, p. 24, column 1.

Pottinger's philosophy on sanctions is "our objective is not to punish. Our objective is to bring them into compliance. When a university doesn't want to comply, then a strong enforcement action will have wide ramifications." Feminist critics, however, contend that the "holds" on new contracts which HEW announces from time to time affect only small contracts, do not last very long, and are easily evaded by the bureaucracy. Once the university comes to the bargaining table, the sanction stops, but the alleged discrimination continues.

Although two new contracts with Columbia have been delayed, the Office of Naval Research just signed a $1.9 million contract renewal with Columbia's Lamont-Doherty Geological Observatory. This dramatized the fact that, through continuing contracts and renewals, a big university can go on doing business as usual with the government—even when sanction have been imposed by the Office of Civil Rights.

BUREAUCRACY

The federal bureaucracy has an array of tactics worthy of pro football to block, dodge, and outrun the enforcers. At the University of Michigan, there have been persistent rumors that some new contracts were signed and that some new projects—expected in the form of contracts—went through as grants during the period October through December 1970, when HEW had placed a hold on signing of new contracts in the university. Asked to comment, one HEW spokesman says "we are unaware that anything illegal happened."

HEW has placed holds on new contract signings at one time or another at 11 universities and colleges. But only five of these actually experienced delays in funds. One regional civil rights staffer explains that the contract officers both in the university and in government are adept at dodging the holds. Anticipating that the ban won't last, they keep a contract sitting on their desks, allegedly tied up in paper work, until the hold is lifted. By not submitting the document for signing the bureaucrats evade the whole messy issue of discrimination and non-compliance.

Finally, according to one university contract officer, the contracting officers in the various federal agencies vary widely in their commitment to civil rights. Some are highly conscientious and respect the hold. They even bring pressure to bear on university officials to cooperate with HEW. However, others are more interested in business as usual, and will avoid the bother of delays or holds.

So far, feminist criticism has been directed at HEW procedures. A separate problem, however, is the substance of the reforms HEW approves: the affirmative action plans themselves. Science has obtained a number of proposed and ongoing affirmative action plans—of varying degrees of confidentiality.

The goals for hiring of women in the plans, however, are often blueprints not for change but for keeping the status quo. Some of the plans that HEW has approved, Pottinger admits, "are not as strong as they should be," which raises the question as to why HEW approved them in the first place.

The current feminist theory on how to calibrate hiring and promotion of women to top faculty posts is to aim for women's representation in proportion to the number of women Ph.D.'s in current and future labor pools.[6]

But at the University of Michigan, the hiring goals in the current proposed affirmative action plan would keep the percentages of women in the faculty unchanged. Full professors, in 1970–71 were 4.5 percent of the faculty. In 1973–74 they will number 78 out of 1177 or 6.6 percent. Associate professors who are women, now 11.2 percent, are to rise to only 13.9 percent by 1973–74, or 96. Women assistant professors, who in 1970–71 were 14.4 percent will rise to 27 percent. Yet, nationally, of all graduate students, women now are 41 percent and graduate enrollments of women graduate students rose by 9 percent.

HEW has had Michigan's latest proposed affirmative action plan for ten months without public comment—or approval. HEW received the University of Pittsburgh's affirmative action plan 14 months ago. The plan outlined the following hiring goals for the fall 1971. Projected faculty size was to be 595. But the actual hiring carried out in the last year resulted in a faculty of 575, or 20 members smaller than planned. The breakdown is shown in the Table 1.

TABLE 1[1]

	Projected	Hired
Total faculty	595	575
Majority men	7	61
Minority men	9	4
Majority women	14	9
Minority women	5	1

[1] From the affirmative action program report November 11, 1971, University of Pittsburgh Faculty of Arts and Sciences.

A final problem with the hiring goals—both modest and ambitious—and with implementing them is, as any physics Ph.D. knows, there are very few faculty jobs available. The shortage of university funds is making particularly so-called "soft money"—which now provides research jobs to many academic women—to disappear. University spokesmen say that the job market for women is shrinking at the fiscally pressed university too fast for even a vigorous affirmative action program to significantly increase hiring of women. "We're struggling hard in affirmative action to stay where we are," says a spokeswoman.

AT STAKE ARE VOTES

By Pottinger's own analogy, progress in contract compliance should not be measured by the number of "executions" but by "how much crime is or isn't taking place." The trouble is that such measurements have been impossible hitherto because HEW, does not make the details of affirmative action plans, such as hiring goals, public. Pottinger told *Science* that he wants to make a requirement that the plans be made public. Policy on this, however, is dictated by OFCC, not HEW, and is now under review.

In sum, contract compliance is proving a clumsy mechanism for women's groups anxious to make rapid changes at their universities. At present, it is easy to find criticisms of HEW's performance to date, but difficult to find suggestions for legal or administrative alternatives to the contract compliance route.

As the 1972 Presidential election year gets into full swing, both advocates and opponents of the older, better known civil rights causes, such as busing and Southern school integration will be eyeing the record of the Nixon HEW team, including Pottinger.

In addition, those who favor immediate appointment of more women to university professor's chairs, and those who are opposed to it, will be asking how well the team has done.

They may find that HEW has done all it can in getting the new program under way and using its limited staff to advantage. Or they may, as have some feminists discover "a sorry record." WEAL will have to decide how much heat to put on HEW, and whether

[6] According to a Wesleyan draft affirmative action program (there are 25 women and 11 minority members of a faculty of 305) the college plans an "increase in the number of minority persons and women on the faculty in proportion to the number of Ph.D.'s in the national pool by field by 1980." This is apparently a typical manner of calculating hiring goals.

to oppose Pottinger personally on the grounds that he has done too little too slowly.—DEBORAH SHAPLEY

FDA NUTRITION IMPROVEMENTS

Mr. DOLE. Mr. President, the Federal Register of December 3, 1971, contained some proposed changes by the Food and Drug Administration in the standards for enriched flour and certain other flour products. As a member of the Select Committee on Nutrition and Human Needs I am particularly aware of the value of the changes and was pleased to learn of them.

INCREASE FLOUR ENRICHMENT

The proposal would substantially change and increase the enrichment formula, and the FDA commissioner, Dr. Charles Edwards, has invited the views and comments of interested persons in writing within 60 days after publication. Leading nutritionists have already endorsed the proposed changes, which in part reflect a petition jointly filed by the Millers' National Federation and the American Bakers Association in November, 1969, and published April 1, 1970, requesting increased amounts of iron in the formula. The iron petition received the support of both the Food and Nutrition Board and the Council on Foods and Nutrition of the American Medical Association. Subsequently, the milling industry also asked Food and Nutrition Board endorsement of an increase in the B vitamins in enrichment, citing the drop in intake of those nutrients due to declining consumption and a shift from enriched to unenriched forms of cereal and baked foods.

WHITE HOUSE CONFERENCE RECOMMENDATIONS

The dramatic move to improve the nutritional quality of our flour, breads, and farina also reflects recommendations made at the December 1969, White House Conference on Food, Nutrition, and Health, as well as implicit need disclosed in testimony concerning the shortage of particular nutrients in popular diet, heard by the members of the Senate Select Committee.

The FDA proposal would set new, substantially higher levels for the B-vitamins in enrichment—thiamine, riboflavin, and niacin—and for the minerals, iron and calcium, at fixed single levels, rather than present ranges. Provision is made for reasonable overages within the limits of good manufacturing practice. Because iron deficiency anemia has been generally recognized as a problem among certain segments of U.S. population, the FDA also asked for about three times the present minimum of that mineral as a single, fixed amount. Present minimum levels of calcium, an optional ingredient except in self-rising flours, would be almost doubled. Another optional ingredient no longer in general use in enrichment, vitamin D, would be eliminated entirely since that nutrient is available in other products. In all cases, added nutrients in enrichment must be harmless and assimilable. See chart attached.

Publication of the proposed FDA amendments to present standards marked the 30th year of the enrichment program, hailed as one of the great forward steps in public health nutrition, along with the iodization of salt, the fortification of milk with vitamin D and margarine with vitamin A.

The Chairman of the Food and Nutrition Board, National Research Council, National Academy of Sciences, Dr. D. Mark Hegsted, of Harvard, pointed to changes in American diet in his comment:

WOULD IMPROVE DIETS

The changes proposed in the standards for enriched flours, breads and farina are in the best interests of the American public. Since the original standards were established, there have been marked changes in the diet of most Americans. We now consume less total food, because we have become increasingly sedentary, and a relatively large proportion of the food consists of fats, oils, sugar and refined foods. Grain products consumption has fallen in the past 30 years. Thus the degree of protection provided by the enrichment of breads and cereals has decreased with these changes in dietary habits and higher levels are required to provide equivalent protection.

Dr. Hegsted, who is professor of nutrition at Harvard, added that —

Although grain products consumption has fallen, cereals still provide the backbone of the diet for many people. They are among the less expensive sources of foods. Thus it is particularly important that the nutritional quality of cereals be maintained.

A member of the department of human nutrition, college of human ecology, at Michigan State University, Dr. Olaf Michelsen, also stressed changes in popular diet and misconceptions which have arisen concerning breadstuffs. He said:

The use of higher levels for the vitamins and calcium should make bread, which is even now a good source of nutrients, a still better dietary ingredient. Over the centuries, bread has withstood the rigors of tests and trials carried out by millions of individuals. The countless numbers of people who have and who still find that bread is not only tasteful but also good for them bear witness to the sterling qualities of this universally used food.

LOWER FAT CONTENT

The Chairman of the White House Conference of 1969 on Food, Nutrition, and Health, Dr. Jean Mayer of Harvard, cited heart disease in his comment on the FDA's proposed changes.

Dr. Mayer declared:

I support the principle of increasing the enrichment level for iron and vitamins in bread. An increase in the amount of bread consumed represents our best chance to lower the fat content of the American diet and thus take an effective step in trying to lower cholesterol levels and mortality from our number one cause of death, atherosclerotic heart disease.

Meanwhile, the consumption of bread is for many people at a level such that only increasing the amount of iron and vitamins will insure that the intake in these nutrients is adequate. This is particularly so for women, he added.

NEED ALL NUTRIENTS

Dr. Hegsted cautioned, however, against the development of a false sense of security in the reliance of modern man on the fortification of foods. He said that:

Americans should be advised to consume a wide variety of foods, selected with some knowledge of their nutrient content, as the assurance that they will receive an adequate intake of all nutrients.

He urged people to engage in more physical activity so that they can consume more food and avoid obesity, and concluded that under such conditions increased cereal consumption would be beneficial.

I ask unanimous consent that a table on this subject be printed in the RECORD.

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

PROPOSED (AND PRESENT MINIMUM) ENRICHMENT LEVELS

	Milligrams per pound		
	Flour	Bread	Farina
Thiamine	2.9 (2.0)	1.8 (1.1)	2.9 (2.0)
Riboflavin	1.8 (1.2)	1.1 (0.7)	1.8 (1.2)
Niacin	24.0 (16.0)	15.0 (10.0)	24.0 (16.0)
Iron	40.0 (13.0)	25.0 (8.0)	40.0 (13.0)
Calcium	[1] 960 (500)	[1] 600 (300)	[1] 960 (500)

[1] Mandatory for self-rising flour; otherwise optional. When a calcium compound is needed in self-rising flour for technical purposes, the food may contain in excess of this amount, but no more than is needed.

MORE SEGREGATION OUTSIDE THE SOUTH THAN IN THE SOUTH

Mr. ALLEN. Mr. President, on Thursday, January 13, 1972, the Department of Health, Education, and Welfare released the results of a 1971 nationwide survey of enrollment in public schools by races.

It came as no surprise to those of us from the South that there is less segregation in the public schools of the South than there is in public schools located outside of the South in all quantitative categories in which segregation is measured.

For one example, in the category of 100 percent minority schools, the survey shows that only 9.2 percent of blacks remain in such schools in 11 Southern States, whereas, the percentage is 11.2 in 32 Northern and Western States and 24.2 percent in six border States, plus the District of Columbia. Of course, the District of Columbia has a 95 percent black school population which somewhat distorts the picture in the border States.

Under the circumstances, it is surprising only that U.S. district court judges should continue to clobber public schools of the southern region of the United States with radical, disruptive, and destructive desegregation decrees. It is also increasingly difficult to understand the discriminatory regionally oriented legislation on this subject that continues to emanate from Congress.

Mr. President, the news release issued by the Department of HEW with an accompanying table of school populations by race and region contains much information of value to those who are concerned more with facts than with pious platitudes and vaporish social theories concerning desegregation of public schools. I ask unanimous consent that the news release and accompanying table be printed in the RECORD.

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

HEW NEWS, JANUARY 13, 1972

The 11-State South for the first time has a smaller number and percentage of Negro students isolated in 100-percent minority schools than has the North, Secretary of Health, Education, and Welfare Elliot L. Richardson said today.

The South last year surpassed the North in the number of Negro pupils attending majority white public schools and has continued to widen the gap this school year.

Secretary Richardson said:

"The only measure of desegregation enforcement is results. It cannot be measured by a level of rhetoric or the amount of money cut off from financially distressed school systems. It can be measured only by the persistent fulfillment of our legal and educational mandate—the elimination of dual schools based on race. And on that score, this Administration has a documented record of solid performance."

HEW conducted comprehensive national surveys in 1968 and 1970 with more limited surveys in 1969 and 1971. Projections based on the limited survey of 1971 of racial data underscore extensive changes, almost all of them in the South, since 1968.

For example, 2,000,486 Negro pupils were in 100 percent minority schools in the 11-State South in 1968, representing *68 percent* of the total Negro pupils in the region. For the current school year, the projection shows that only 290,390 Negro students, representing *9.2 percent* of the total in the region, are in all-minority schools.

By way of regional contrast, an estimated 325,874 Negro pupils representing 11.2 percent of the total in 32 Northern and Western States remain in all-minority schools, substantially unchanged from last year. In the continental United States, 11.6 percent of Negro students, or 778,832, are in all-minority schools compared to 39.7 percent or 2,493,398 in 1968.

In the six border States and District of Columbia, an estimated 24.2 percent or 162,568 Negro students are in all-minority schools, a number showing relatively little change since 1968. With the predominantly black District of Columbia enrollment excluded, the six border States still have approximately 21 percent or 115,052 black students in all-minority schools.

The statistics, collected by HEW's Office for Civil Rights and compiled by an independent contractor, show that an estimated 35.6 percent Negro pupils in the United States are in majority white schools, 27.8 percent in the North and West, 43.9 percent in the 11-State South, and 30.5 percent in the six border States and District of Columbia.

In the South, this figure rose from *18.4 percent* in 1968 to *39.1 percent* in 1970 and to an estimated *43.9 percent* in the current school year.

The South has also progressively reduced the number of Negro pupils in schools 80 to 100 percent minority, down from 78.8 percent in 1968 to 39.4 percent in the 1970–71 school year, to 32.2 percent this year.

Relatively little desegregation change is shown in the past year for minorities other than Negro.

In Southern school systems surveyed where the school population is made up mostly of white students, two thirds (67.9 percent) of all Negro students in those districts attend majority white schools. Conversely, in Southern school districts having mostly minority students, where white students constitute the "local minority," nearly half (48.8 percent) of all white children attend schools more than 50 percent minority in makeup. More dramatically, there are virtually no all-white school enrollments remaining in these districts today. Only 0.3 percent of the white pupils in predominantly minority districts attend all-white schools. More than one third of all Negro students in the South today live in school districts that are predominantly minority in their school enrollment.

EXPLANATION OF REPORT ON NEGRO PUPILS BY GEOGRAPHIC AREA COMPARING FALL 1971 PROJECTIONS WITH FINAL FALL 1968 AND 1970 DATA

The attached table was constructed by using the data provided by 2,698 districts reporting in 1971, and then adding the 1970 data from those districts not reporting in 1971 but surveyed in 1970. All data was then weighted to give national representation.

Of the 43 million pupils represented by our 1970 data, OCR received 1971 data representing 20 million pupils. For the projection, OCR assumed no change in the districts which were represented in the 1970 survey, but not included in the preliminary results of the 1971 survey.

Of the 6.7 million Negroes represented in the data, OCR received 1971 data representing 5.0 million Negroes. A third national survey comparable in scope to those conducted in 1968 and 1970 is planned for 1972.

DHEW OFFICE FOR CIVIL RIGHTS FALL 1971 ESTIMATED PROJECTIONS OF PUBLIC SCHOOL NEGRO ENROLLMENT COMPARED WITH FINAL FALL 1968 AND 1970 DATA [1]

Geographic area	Total pupils	Negro pupils		Negro pupils attending schools which are—					
				0 to 49.9 percent minority		80 to 100 percent minority		100 percent minority	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:									
1968	43,353,568	6,282,173	14.5	1,467,291	23.4	4,274,461	68.0	2,493,398	39.7
1970	44,877,547	6,707,411	14.9	2,223,506	33.1	3,311,372	49.4	941,111	14.0
1971 estimate	44,691,675	6,724,956	15.0	2,393,824	35.6	3,084,785	45.9	778,832	11.6
Difference 1970–71	−185,872	17,000	.1	170,318	2.5	−226,587	−3.5	−162,279	−2.4
32 North and West: [2]									
1968	28,579,766	2,703,056	9.5	746,030	27.6	1,550,440	57.4	332,408	12.3
1970	29,451,976	2,889,858	9.8	793,979	27.5	1,665,926	57.6	343,629	11.9
1971 estimate	29,299,586	2,913,047	9.9	810,895	27.8	1,664,771	57.1	325,874	11.2
Difference 1970–71	−152,390	23,189	.1	16,916	.3	−1,155	−.5	−17,755	−.7
11 South: [3]									
1968	11,043,485	2,942,960	26.6	540,692	18.4	2,317,850	78.8	2,000,486	68.0
1970	11,570,351	3,150,192	27.2	1,230,868	39.1	1,241,050	39.4	443,073	14.1
1971 estimate	11,551,697	3,139,436	27.2	1,377,847	43.9	1,010,558	32.2	290,390	9.2
Difference 1970–71	−18,654	−10,756	0	146,979	4.8	−230,492	−7.2	−152,683	−4.9
6 border and District of Columbia: [4]									
1968	3,730,317	636,157	17.1	180,569	28.4	406,171	63.8	160,504	25.2
1970	3,855,221	667,362	17.3	198,659	29.8	404,396	60.6	154,409	23.1
1971 estimate	3,840,392	672,473	17.5	205,082	30.5	409,456	60.9	162,568	24.2
Difference 1970–71	−14,829	5,111	.2	6,423	.7	5,060	.3	8,159	1.1

[1] 1971 figures are estimations based on latest available data and are subject to change upon final compilation.

[2] 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.

[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

[4] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.

A NEW BALL GAME IN BROADCASTING

Mr. SCOTT. Mr. President, I ask unanimous consent that remarks by Donald H. McGannon, president of Westinghouse Electric Co., at Temple University in Philadelphia, be printed in the RECORD. The remarks are entitled "A New Ball Game in Broadcasting."

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

A NEW BALL GAME IN BROADCASTING

I believe there is a certain parallel in the post-World War II destinies of the United States and its system of commercial television.

For almost a quarter of a century both enjoyed an economic boom that seemingly had no end. Both appeared to ignore or shrug off problems that were more social than economic.

But the problems didn't go away. They grew to plague-like proportions. Then the boom tapered off but the problems remained. Now for both the nation and broadcasting, it's a whole new ball game.

We are in a time of great change, nationally and within the industry. A new reality is a new challenge, and a new challenge calls for new approaches, new creativity, new energy. It's not a time to attempt to cling to past accomplishments or to the status quo and deny the many changes in the facts of life which are beginning to overwhelm us. It's a time to entertain new ideas, to forge new tools for survival, to create new solutions to new and old problems.

We have seen our nation undergoing a tremendous change of heart in recent years, a change which many thought would arrive much more slowly—if at all.

We are winding down the war in Indochina, a war that five years ago a majority of the members of both major political parties and of the nation, according to reliable polls, were in favor of waging and winning.

We have extended a gesture of friendship to Communist China and are advocating its admission to the U.N. Wasn't it only yesterday that we were speaking of "unleashing"

the Nationalist Chinese for an assault on mainland China and waged last-ditch efforts to block repeated attempts to its entry into the world body?

Our cold war with Russia has thawed considerably.

And we are in the process of changing our economic policies and practices despite our historical antipathy to a controlled economy. This change, moreover, is not being made by a liberal or a radical, as might have been expected, but by a conservative President.

I offer this brief recital of national affairs not merely as a preamble to my views on broadcasting, but as a worthy precedent for a case in behalf of change without violent revolt, of change within the system, which I believe is in the noblest American tradition. Indeed, I believe that the true genius of the American system is that it embodies within its stability the capacity for change.

It is within this context that I have been speaking these recent years about the broadcasting industry, a system of communication which I consider the finest in the world and to which I have devoted most of my adult life. In my position at Westinghouse Broadcasting, I need not remind anyone, I am a member of the Establishment, or what outsiders call the Establishment. And when I speak critically of industry practices, as I sometimes do, I do speak not in repudiation of the system but as a defender of the system who sometimes grow impatient with its myopia, its particularly when the challenge is so great, slowness of response to challenge and change, and affirmative and constructive response so needed.

Let us look backwards to television's beginnings. In the 1950's the new art, free of inhibitions based on past form or practice, manifested an exhilarating excitement as it undertook creative experimentation with courage and willingness to try anything new. In that first decade of television, we saw new program series of all kinds on our television sets, which seemed electronic mircales in themselves, even though most of them were small screen and black and white.

The decade of the 60's represented a considerable change, in my opinion. It was a decade in which television lost much of its compelling quality. The medium became more cautious, less innovating and less pioneering. Programs like "Playhouse 90," "Armstrong Theatre," "The U.S. Steel Hour," "Studio One," "The Bell Telephone Hour," "Omnibus" literally disappeared from the screen. In their place came a proliferation of programming in the situation comedy, western or mystery formats.

The second decade, on the other hand, brought in the field of technology and actuality—color, tape, stop-action and split screens, etc., etc. It also brought the Great Debates, live pictures from Europe and Asia, the fabulous trips into outer space and man's first walk on the moon.

But on the whole, television programming fell out of step with American reality. The social crises of the 1960's outstripped television's ability to keep up with the swiftly changing world. The successive assassinations of national leaders, the emerging civil rights struggle of blacks, the riots and disorders of the campuses, ghettoes and streets were well covered as breaking news stories, but the background, the causes, the "why" of these events went begging, largely unexplained on the television screen.

Of the Indochina war, which many called "television's war" or "the livingroom war," James Reston of The New York Times said in 1967—after the great escalation and the bombing of North Vietnam—and I quote:

"More than 400,000 Americans, most of them conscripts, are now fighting a war in Vietnam. Most of them do not know how it started, and even many officials are extremely vague about how we got so deeply involved.

"It cannot be said that the people were well informed before their commitment to the battle, or even that their representatives in the Congress really debated the decision to wage this kind of war at the time of our involvement."

As a result, television programming of the 1960's became progressively tired and irrelevant to the times, and segments of our society, most notably our youth but also blacks and parents, became alienated.

The American economy was thriving but at the same time large parts of American society were coming apart at the seems. And many in broadcasting began to realize that for too long we had been preoccupied with ourselves, specifically with our technology and our economics, and not enough with the larger picture of American society.

For to be dedicated to good broadcasting is to be concerned about society. As broadcasters we are not just members of our society and community; by virtue of our enormous reach, our huge audiences, we cannot escape being among the shapers of our communities.

The larger picture of American society of the 1960's revealed an ongoing conflict of basic issues of universal interest.

On all sides, the image of man was being tarnished and demeanded, belittled and degraded, diminished when not actually held in contempt. This is what I think much of the young rebellion is all about. It is a cry against the mechanization of human life, against the brutalization of human life, against the dehumanization of human life. It is a cry of help for the sacredness of life. It is a call, once more, of man to greatness.

War and peace, civil rights and social justice . . . these are just the beginnings of a list of issues that should concern us. Aid for poor and the needy, the imperative of more and better education, the alarming dehumanization of sex are among others.

The disease of racial and religious bigotry, the crime of injustice, the blight of chronic poverty amid general affluence, man's slow suffocation of life on earth by his own pollution of air, land and sea—these are the enemies worthy of noble rebels—of activists.

In other words, the task of modern man, it was revealed, was to regain his dignity, and broadcasting was not sufficiently involved in the work.

I think the time has come—indeed, is past due—for the great instruments of broadcasting to do more than report and explain problems. Radio and television must help solve problems, broadcasters must become activists.

All of us once had difficulty identifying the problems of our society and communities. But we know them now. We know them well. We have discussed them over and over again.

Now broadcasting must do more. We must take on a greater task, to help our communities find the solutions to their problems, which have been our problems as well all along.

Towards that end, more than a year and a half ago, I proposed that a national policy of telecommunications goals and objectives be established by a public-interest group that would include educators, social scientists, creative programmers and managers from within and without the industry, and representatives from communities.

It is my conviction that people outside the industry must be included, as well as insiders, because neither television nor society operates in a vacuum. Each is a part of the other; they are inevitably intertwined. The future of television rests foursquare on the foundation of advice and consent of all of society, not just a part of it.

The national telecommunications public-policy committee I propose would seek answers to some basic questions. Among them are these:

Is the community concept of American television still valid?

What is the proper balance of station and network programming?

How should the broadcast day be divided between entertainment and news, public-affairs and public-service programming?

What is the fair division between commercial content and programming content?

What relevance should there be between programming and the need and interest of the American people?

What are the social and political obligations and objectives of television?

But at the outset, the proposed public-policy committee must grapple with truly urgent problems dealing with our survival in a changed world. The four most urgent are these:

1. Our relationships with minorities—blacks, Chicanos, Puerto Ricans, Asian-Americans, Indians and so on—in regard to their training and increasing employment in our industry and in regard to our programming to their needs and interests.

2. The imperative to re-establish our integrity in the face of a widening credibility gap between our audience and us. No matter that the attacks on our industry are not always well founded, or conceived in the spirit of constructive criticism. Our integrity is not being taken for granted. We must demonstrate it by commitment and performance, and by consistent proof of our fairness, objectivity and professionalism.

3. Our programming lacks diversity and falls short of the medium's potential. We must find ways of preventing any alienation or erosion of our most precious resource, our audience.

4. Our need to plan industry policies and goals for ourselves. For we—and not government, in ad hoc decisions—are the proper parties to make such deliberations by virtue of capability, qualifications and experience.

This suggestion was not well received—it was construed as an invitation to big government to take over free broadcasting. This was totally not so. It was and is intended as a creditable means of keeping big government out and broadcasting free. It was considered by others as encouragement to the many dissenters and critics of broadcasting—this also was not the case. It was and is hoped to be a means of bringing order to our industry and yet create ambitious public goals for all broadcasters.

Bold, courageous action taken by this industry in its enlightened self interest can produce a level of public opportunity in the 1970's and 1980's, beyond any previously experienced or enjoyed by the American people.

If we commit ourselves to creating goals and making our medium more flexible, more responsive, energetic and lively, we can more sensibly and realistically make progress. Long-range problems of major proportions such as our industry and our nation have in abundance do not lend themselves to one-shot instant solutions. But we can take small, positive and effective steps. And we must not minimize the cumulative importance of small steps taken in the right direction.

Let me recapitulate. Change is urgent. Change is essential. Change is coming—is around us in industry and the nation—whether we like it or not. But change of our own making within the system—not a system radicalized or politicized—is the only key to our survival and to our future prosperity.

I thank you for this opportunity to present a digest of an Establishment insider's thoughts, beliefs and hopes about broadcasting.

IMPROVEMENT OF FARM INCOME

Mr. McGOVERN. Mr. President, it is my hope that the Senate will soon act favorably on H.R. 1163. Unless we pass this bill and send it to the White House for the President's signature, it is doubtful

that any action will be taken to improve farm income in this session of the Congress.

It would serve no useful purpose to belabor the serious cost-price squeeze facing the American farmer. According to the latest statistics from the Department of Agriculture, the parity ratio now stands on 71 percent, one of the lowest levels since the Great Depression. Farmers need help and they need it now. H.R. 1163 would provide this badly needed assistance.

The National Farmers Union Washington newsletter of January 7, 1972, discusses the impact H.R. 1163 would have on our agricultural economy and also presents an incisive grasp of the issues involved. I ask unanimous consent that it be printed in the RECORD.

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

NATIONAL FARMERS UNION, WASHINGTON NEWSLETTER, JANUARY 7, 1972

The Farmers Union has launched a campaign to pass the emergency wheat and feed grains legislation which would increase loan rates by 25%. Support is being enlisted from small business interests, independent bankers, mayors, and consumer groups. The bill, which would increase income for wheat and grains producers by nearly $1.5 billion, has passed the House of Representatives and a Senate agriculture subcommittee. It awaits action by the full committee. Farmers Union National President Tony Dechant said, "We are urging that the measure be an early order of business when the Senate reconvenes later this month. The matter is urgent." Dechant said, "Commodity prices have dropped drastically as a result of overproduction in 1971 under the disastrous 'set-aside' land retirement plan. Part of the economic damage to farmers can be remedied by prompt passage of this important piece of legislation." The appeal to other groups is being made on the basis that increasing commodity loans will increase income to all economic sectors of rural America and will result in less expenditure of government funds. "Clearly," Dechant said, "the corrective action sought under H.R. 1163 would increase income of farmers and rural businessmen; reduce government expenditures in 1972 for both wheat and feed grains programs; establish a strategic reserve of wheat and feed grains, thus protecting the national food supply; and continue stable consumer prices for food." (See page 3.)

A new wheat program is expected to be announced next week by the USDA. An election forecast of a record crop with resulting low prices is forcing the Administration to take another look at the production control aspects of its set-aside program. The Department is said to be studying 1972 wheat program changes including increased price supports and payments for set-aside above the required 83%. The 1971–72 winter wheat crop is estimated at nearly 1.3 billion bu., 11% above the 1971 harvest and 16% above the 1970 crop. It is 56 million bu. above the previous winter wheat record of 1.235 billion bu. set in 1968. The 42.2 million acres planted to winter wheat was 9% (3.5 million) above 1971 and 10% (3.9 million) more than the 1970 crop. The estimated yield of 30.6 bu. per acre is a 0.1% increase over last year. The 1972 harvest is the first full wheat crop planted under the set-aside land retirement plan. Much of the 1971 crop had already been planted when the first set-aside was announced. Carryover for all wheat is expected to increase by nearly 250 million bu. to 975 million bu. by next summer. The USDA predicts that total disappearance of all wheat may fall by about 150 million bu. because of lower feeding and a 15% to 20% reduction in exports. The Administration blamed the feed grains surplus on the failure of the corn blight but there is no such excuse involved in the record wheat production. Chances for an improved wheat program appear to be good.

The impounded $55.5 million in REAP funds was finally released by the Office of Management and Budget Tuesday. The Administration is referring to the money as "additional" funding for the Rural Environmental Assistance Program but, in fact, the $55.5 million had been held by the O.M.B. Although Congress had appropriated $195 million for the conservation program, the Administration had refused to release any more than their request of $140 million. Farmers Union and others have been demanding release of the impounded funds for many months.

The role of governors and state party organizations in national politics will be emphasized at the Farmers Union National Convention to be held in Houston, Texas, Feb. 28 through March 2. Farmers Union National President Tony Dechant said, "This new approach to the national political scene in a Presidential election year evolves from the renewed emphasis on grassroots involvement of our members in the political processes. The structure of our political parties, as well as the Electoral College itself allocates a crucial role to the states. Within most states, no leader exerts influence comparable to that of the governors. That is why we are inviting them to our convention. We want our members to be involved in every aspect of politics, from voter registration, precinct caucuses, election of county committees, to selection of delegates to the national party conventions." Dechant said, "The governors from key farm states are not being asked to make speeches. They will take part in a 'dialogue' with delegates through panel discussions on specific issues including: The corporate domination of politics and the economy; taxes; and the processes of the political system. The governors will be asked some hard, tough questions." Announced presidential candidates will also be invited to the convention and will face many of the same tough questions. "Farmers Union delegates will be seeking firm commitments to family farm agriculture as opposed to the traditional political 'promises'," Dechant said. Governors who have already accepted invitations to the convention include: Robert Docking of Kansas, Chairman of the Midwest Governor's Conference; William Guy of North Dakota; and James Exon of Nebraska.

Revised Federal farm truck driver regulations went into effect on Jan. 1 after nearly 2 years of negotiations with the Department of Transportation. The original DOT proposals contained no exemptions for farm truck drivers from federal safety regulations. The revisions were first printed in the Fedeal Register on April 22, 1970, and would have gone into effect on Jan. 1, 1971 except for a last-minute postponement at the request of Farmers Union and the National Council of Farmer Cooperatives. Other farm organizations and interested parties then joined in opposition to new, but unacceptable DOT exemption proposals. The controversy forced a second postponement from July 1 to the first of this year. In the regulations, now in effect, a blanket exemption has been made for the drivers of farm trucks weighing 10,000 lbs. or less. There is no minimum age requirement, other than state laws, for drivers of farm vehicles below 10,000 lbs. or straight trucks of any weight within 150 miles of the farm. The age limit for trips beyond the 150-mile limit was reduced from 21 to 18. The need for investigation into the driver's background and written or road tests are eliminated. However, medical examination for physical qualifications will be required for farm truck drivers after Jan. 1, 1973.

New payment limitation regulations became effective on Jan. 1. The modifications require that each person receiving payments be actively engaged in the farming operation. The law had restricted payments to a minimum of $55,000 per "person" but had not specified any particular involvement required to qualify as a "person." Under the new regulations, a "person" must be engaged in the farming operation by contributing land, labor, equipment or capital. The new provisions also limit the total payments to $55,000 for anyone owning more than 20% of stock in a corporation even though he may qualify for payments under a number of different programs.

Meanwhile, Agriculture Secretary Butz has refused to suspend ASCS Administrator Kenneth Frick. Senators John Tower (Tex.) and Fred Harris (Okla.) had demanded Frick's resignation after learning that he had half interest in one of the farms cited for program "irregularities" in Kern County, Calif.

A portion of impounded REA funds has been released but the rural electrics still stand to lose $107 million in appropriated funds. The Administration announced Thursday that it is releasing $109 million of the $216 million held up by the O.M.B. Congress authorized $545 million but only the budget request of $329 million was released. The O.M.B. says the balance will be released in July. *But a new fiscal year,* covered by new appropriations, begins July 1. If the Administration refuses to release the balance before July, REA will be deprived of $107 million.

$1.5 BILLION MORE FARM INCOME

The House-passed bill to increase the price support loan on wheat and feed grains by 25% and to establish a strategic reserve for wheat and feed grains (H.R. 1163) should be the first item of business for the Senate Agriculture Committee when the Senate returns from the holiday recess January 18. The 25% loan increase is the heart of the bill in every respect. It can mean an immediate rise in income for feed grain and wheat farmers. Here's roughly the effect that a loan increase of 25% will have on income to farmers from the 1971 production of the 4 major commodities that are covered:

	Yield (millions of bushels)	Income increase (millions)
Corn	5,550	$971.6
Wheat	1,640	283.6
Grain Sorghum	889	124.5
Barley	462	92.5
Total 4 commodities		1,472.2

In sum, enactment of the 25% loan increase for wheat and feed grains would mean added income to farmers of roughly $1.5 billion on the 1971 crop alone. The bill provides for the increase for 1971 and 1972, so that comparable increases could be expected on the 1972 crop as well.

The issue is clear. The income of profit-making enterprises and wage earners was frozen temporarily on August 15, 1971, under the President's "new economic policy." This freeze lasted only 90 days, and now labor and management are free to increase their returns within limits set by the Administration. Farm income was frozen much earlier, at least since enactment of the Agricultural Act of 1970. And no relief for the farmer is in sight from the Nixon Administration despite the fact that the farmer's productivity and his costs of production continue to rise rapidly. Congress now appears ready to force the Administration's hand by enacting H.R. 1163, and in this way requiring the Administration to allow a modest increase in price supports to feed grain and wheat farmers who are faced with massive surpluses and disastrously low prices.

The response of the Administration thus far is to put up a smoke screen of opposition to this badly needed income improvement for farmers. A veto by the President has been threatened if Congress enacts H.R. 1163; Agriculture Secretary Butz told the press that a veto would not be "all bad politically." Butz referred to problems of detail in making the loan increase fit into the on-going set aside program.

This reference by the Secretary to problems of detail is a tactic designed to divert attention from the central issue of farm income improvement. The Secretary has plenty of authority under present laws to make adjustments so as to dovetail the wheat and feed grain loan increase into present programs without major disruptions. For example, Secretary Butz has legal authority to increase price supports on other commodities to maintain balance among crops, and to return to supply management on a crop-by-crop basis for 1972.

Regardless of how, the burden of working out the details to accommodate the loan increase provided in H.R. 1163 rests squarely upon the Administration. If the Administration had not taken an absolutely negative position on the price support and strategic reserve bills earlier in 1971 when adjustments to on-going programs would have been easier, last-minute improvising would not now be necessary.

All that Congress can do is force the Nixon Administration's hand by insisting upon higher prices for wheat and feed grains. It is up to the Administration to get itself out of this self-imposed crisis by making the necessary changes in the set aside program. The sooner the Administration shifts to such a more positive attack on low farm income, the better off everyone will be.

WASHINGTON WRAP-UP

Hidden government subsidies will be the subject of a hearing by a subcommittee of the Joint Economic Committee of Congress, Jan. 13, 14 and 17. Committee Chairman, Sen. William Proxmire (Wis.) said, "The Federal Government provides billions of dollars of subsidies through the budget. Billions more never appear because they are hidden, difficult to calculate, represent taxes not paid, or special privileges for which no one has yet placed a price tag."

Sign-up periods for the cotton, wheat and feed grains programs have been changed to Feb. 3 through March 10. The USDA says the delay is to allow additional time to evaluate the results of the special Jan. 27 Farmers Planting Intentions Report. ASCS offices will accept sign-ups prior to the official period.

Groups from two Farmers Union states will make the fly-in trips to Washington on successive weeks toward the end of January. Some 40 Farmers Union members from South Dakota will arrive in Washington on Jan. 23 and remain through Jan. 28. The following day, 47 North Dakotans will visit the Nation's Capital and stay through Feb. 2.

This week's 2.7 million bu. corn purchase brings to a total of 7.7 million bu. bought by the USDA since Dec. 12. Price paid the first week ranged from $1.12 to $1.30 per bu. Prices this week ranged from $1.11 to $1.21 per bu.

MORE BUREAUCRATIC LEGALESE

Mr. CURTIS. Mr. President, on December 17 last, the day that the 92d Congress adjourned its first session, I made some remarks about how people are confused by the Government's legalese, particularly in the writing of rules and regulations to implement the laws we pass.

I cited as an example the definition of the word "exit" in the following manner in the regulations implementing the Occupational Safety and Health Law:

Exit is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge.

The use of the term "exit discharge" at the end of the definition of "exit" then made it necessary for the regulation writers to define "exit discharge," which they did as follows:

Exit discharge is that portion of a means of egress between the termination of an exit and a public way.

None of the expert scribes at the Labor Department had access to or confidence in the dictionary, which describes exit simply and accurately as:

A way out of an enclosed place or space.

I said in pointing out the confusing nature of the Labor Department's definition of exit that I would be exposing similar specific examples of language in the laws and regulations that creates public misunderstanding and mistrust.

I expect to do this repeatedly in the days and months ahead.

Today, Mr. President, I invite the attention of the Senate to a regulation published by the Department of Housing and Urban Development in the Federal Register on December 22, 1971.

I have no quarrel with the Department of Housing and Urban Development, but I believe that Congress has appropriated sufficient funds to the Department to hire writers who can do a better job of communicating.

Here is what the Department proclaims in one sentence under the title of "excess earnings" in paragraph 238.254 of subpart B, part 237, entitled "Special Mortgage Insurance for Low and Moderate Income Families"—part II, section 2 of December 22, 1971 Federal Register on Reorganization of title for Department of Housing and Urban Development.

For all of the purposes of any insurance contract, 50 percent of the excess earnings, if any, for any operating year may be applied, in addition to the minimum annual return, to return on the outstanding investment but only to the extent that such application thereof does not result in an annual return of more than 5 percent of the outstanding investment for such operating year, and the balance of any such excess earnings shall be applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment: Provided, That if in any preceding operating years the gross income shall have been less than the operating expenses, such excess earnings shall be applied to the extent necessary in whole or in part, first, to the reimbursement of the amount of the difference between such expenses (exclusive of any premium charges previously waived under Paragraph 238.252) and such income, and second, to the payment of any premium charges previously waived hereunder.

That sentence is 163 words long, Mr. President, and I will throw in with you if you can tell me what it means, without a battery of Philadelphia lawyers and several years of litigation.

And they say ignorance of the law is no excuse?

PRESIDENT NIXON WILL TAKE THE HIGH ROAD

Mr. SCOTT. Mr. President, I invite the attention of Senators to an exceptional column entitled, "Nixon Will Take High Road in His Bid for Reelection," written by Nick Thimmesch, and published in the Philadelphia Bulletin.

These opinions are a fair summation of what we can expect this year. I ask unanimous consent that the column be printed in the RECORD.

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

NIXON WILL TAKE HIGH ROAD IN HIS BID FOR REELECTION

(By Nick Thimmesch)

WASHINGTON.—As far as the man who occupies the White House is concerned, it's going to be "The President" instead of Richard M. Nixon in the 1972 presidential election. The present strategy is high-road, philosophical, look-what-our-President-is-doing to make peace and protect and improve the nation.

At a strategy session conducted by Vice President Agnew in the Roosevelt Room of the White House, Republicans holding top-drawer positions in the Administration were urged to stress, in speeches, what the President has accomplished, to make it "The President, The President, The President." No need to talk about the Nixon-Agnew team.

WILL SHUN IN-FIGHTING

Mr. Nixon, the participants were told, will conduct himself in a high-minded manner and do his best to keep out of the political fighting this year. John Scali, a special consultant to the President, dipped into his experience as a TV network correspondent to explain how Administration officials failed to salute the President's accomplishments in their speeches. Some participants responded with complaints they couldn't get through to White House officials to get advice for selling the President's performance.

Anyway, Mr. Nixon, in his "conversation" with CBS' Dan Rather (it was more of a confrontation), said his strong points weren't rhetoric, showmanship or charisma, but "performance. I always do more than I say," and added that the country needs action over personality.

PRESIDENT WAS CAUTIOUS

In that nationally televised program, which drew a somewhat smaller audience than the show it pre-empted (Cade's County). Rather tried hard to draw Mr. Nixon into contention, but the President successfully slipped off the hook.

After Rather asked Mr. Nixon, in effect, how come people don't think he has personal warmth and compassion, the President said that he wouldn't psychoanalyze himself, "because that's your job . . ." Still, the Gallup Poll reports that Mr. Nixon is the most admired American.

When Rather cited a Nixon quote (out of context), "Black people are still different from white people," asking what did he mean, how are black people different from white people, the President's answer not only thwarted any implication that he was biased, but reaffirmed the unique greatness of pluralistic American society.

Mr. Nixon said that in talking to blacks on his staff or whom he went to school with, he learned that they have "the inevitable memory" of slavery and lingering prejudice. A black realizes, the President continued, that when he is in school or looking for a job, "that he is different, he is different from the white person, and for that reason he therefore has problems that the white per-

son does not have. I think unless we recognize that fact, we are not going to do the right kind of job that we should in handling black-white relations."

QUOTED OUT OF TEXT

If Rather had presented the entire blacks-are-different-from-whites quote, he would have had to include Mr. Nixon's remark that black identity "would enrich the country in the long run," a statement that blacks who stress the black contribution to our culture would heartily endorse.

Rather went from blacks to George Wallace, naturally, and the President tossed the Alabama governor, an elected Democrat, right back to his home party, noting that Wallace will be entering Democratic primaries.

In professional terms, Rather, who is not without ambition, did very well in firmly pressing the President. The "conversation" might be "The Making of Dan Rather at CBS." Like other White House regulars, Rather resents the infrequency of Mr. Nixon's meetings with newsmen, and understandably turned this opportunity into a sort of one-man press conference. CBS was right in resisting the White House preference to have a luminary like Walter Cronkite, instead of Rather, whose sentiments toward Mr. Nixon are well known.

TONE OF TELEGRAMS

While his colleagues generally applauded Rather's performance, the public reaction was something else. CBS reports a favorable response to Rather's deportment. But the program also drew these telegrams:

"I would have liked to have seen the President ask you a few questions. Not only were yours irrelevant but they were downright hostile to him. You never gave him a chance to answer. Couldn't you be quiet and let him finish?"

"Richard Nixon's command of fact and historical perspective made you look like a little boy."

"Nixon and Agnew get more votes every time you go after him that way. I'm for Muskie and I'm sure glad you don't do it to him, too. But lots of people think that CBS is out to get Nixon so they support him. Let Richard Nixon have all the rope he needs to hang himself, but don't help him like George Meany did."

Presidents Dwight Eisenhower, John F. Kennedy and Lyndon B. Johnson, in comparable visits with the press, weren't subjected to questions about their personalities or how much the public loved them. Mr. Nixon gets this kind of stuff and will continue to get it, I suspect, because he has been a fiesty political brawler, a man enunciating high principles, and as the nation's most important public figure, one who now clothes himself in the presidency.

This is what he wants to do in the months ahead, as the presidential politicking intensifies, as he is nominated and enters the campaign. He will be in the role of President all the way, and resist every effort, as he showed in the Rather "conversation" to get down there in the street and fight.

AMNESTY

Mr. McGOVERN. Mr. President, since initially proposing amnesty for all American young men who fled the country or filled our prisons because of conviction of mind and command of conscience, there has been considerable discussion of this proposal. It is particularly gratifying to me that the amnesty proposal has been the subject of serious discussion instead of partisan controversy. As a matter of fact, President Nixon no longer rejects the idea out of hand. This signifies, at least to me, that the proposal is well within the mainstream of American thought.

Commonweal magazine for January 14 has published a commendable editorial analyzing the issue. I ask unanimous consent that it be printed in the RECORD.

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

AMNESTY

The question of an amnesy for the 70,000-100,000 young Americans who have either quit the military or refused the draft over the war in Vietnam is short of being an idea whose time has come, but it is not an idea whose time is far away. The swing of President Nixon from a flat rejection of the idea several weeks ago to qualified openness in his recent CBS interview with Dan Rather is clue to the mood which is settling over the land on the subject. When Cardinal Cushing spoke out in favor of amnesty a couple of Christmases ago, the notion of an amnesty was as alien as the notion of surrendering in Vietnam. The latter notion is today no less alien, but not amnesty. Not only does the nation's Chief Executive entertain the possibility, but two bills are in the Congress which would implement the idea.

In point of fact, the amnesty idea is, as Mr. Nixon himself conceded, neither singular nor radical so far as American history is concerned. George Washington granted amnesty to the Whiskey insurrectionists. Abraham Lincoln provided an amnesty for Union deserters in the last days of the Civil War. Andrew Johnson helped bind up the wounds of the nation after the Civil War by extending amnesty to the soldiers of the Confederacy . . . and if it is possible to give amnesty to persons who fought in rebellion *against* the country, how much more possible should it be to be magnanimous with those reluctant inheritors of a violent situation, whose consciences would not let them accommodate the violence of Vietnam? More than being just possible, magnanimity is demanded by justice if the individual conscience is still to be respected in the United States, and if conscientious resistance remains a factor to be entered into value equations.

If there is a barrier to amnesty, it is a political one more than any other. Religious authority is pretty much in agreement that American involvement in Vietnam has passed the point of proportionality, and public opinion would seem to concur; 58 percent of Americans, according to a Harris Poll of last May, indicated that they believe it "morally wrong" for the U.S. to be warring in Vietnam. If there is an immorality involved in the Vietnam enterprise, as the growing consensus would have it, then it is impossible to be other than generous toward those who refused to be party to that immorality.

None of this is to say precisely what form amnesty should take—whether it should be unconditioned, as some argue, or whether, as one Congressional bill would provide, it should be tied to some kind of redemptive public service. It is not to say either that no differentiation should be made between draft evaders and deserters from the military; these may not always be cases of the same genre. What is important is that the issue not become an emotional one, as could happen if Mr. Nixon persists in his pound-of-flesh approach, demanding that those pardoned "pay the price" for violating the law; and that it not be politicized by being joined to other issues, as Mr. Nixon seems prone on doing in linking amnesty to the return of the prisoners of war.

This said, we welcome Mr. Nixon's comments on the amnesty question, tentative though they were. Hopefully they will serve to broaden a process of national discussion, a detail vital of itself. For although Mr. Nixon is exact in saying the "prerogative" for an amnesty is his, it is essential that the public have a fuller understanding of the issue so that, when amnesty comes, it will be received in a spirit of reconciliation.

DEATH OF PUBLIC PRINTER SPENCE

Mr. SCOTT. Mr. President, Adolphus Nichols Spence II, the Public Printer of the United States, died January 11 of a heart attack. He leaves a reputation for thoroughness and imagination, often providing the inspiration for many new printing services.

Nick Spence, as his friends knew him, had an outstanding career. He began his printing career in private industry and joined the Federal Government in 1932, becoming a printer and later supervisor. He was recognized as an innovator in printing management techniques and machinery manufacturing.

Mr. Spence greatly improved services to Congress by generating the Federal printing program under the auspices of the Joint Committee on Printing. This program aims at eliminating Government competition with private industry. In addition, he headed both the Navy Publications and Printing Service and the Defense Printing Service prior to his appointment as Public Printer.

We grieve the passing of this humble, genuine, and extremely capable man.

I ask unanimous consent that the New York Times obituary be printed in the RECORD.

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

[From the New York Times, Jan. 12, 1972]

ADOLPHUS SPENCE II, 55, DIES; HEAD OF U.S. PRINTING OFFICE

WASHINGTON, JAN. 11.—Adolphus N. Spence II, head of the Government Printing Office, died today at his home in Alexandria, Va. He was 55 years old.

He leaves his wife, Ruth; four children, Adolphus N. III, Stuart, Victoria and Elizabeth, and his mother.

IN NAVY INTELLIGENCE

Mr. Spence was an innovator of techniques involving printing management and graphic communications generally. He was appointed Public Printer, the administrative head of the Government Printing Office, by President Nixon on April 1, 1970.

After serving as a Navy intelligence officer in World War II, Mr. Spence became a civilian employe of the Navy as director of publications and printing service.

Mr. Spence started the venerable Government Printing Office on a new course with the introduction of a $20-million Linotron, then the fastest, largest and most expensive photo-composing machine in the field.

This machine performed electronically such tasks as printing lists of world broadcasting stations for the Central Intelligence Agency and the Defense Department's "master cross-reference list."

The latter consisted of 60,000 pages, each page with 14,000 characters, the whole making 81 volumes, with a total of 5,000 sets produced.

The Government Printing Office recently noted that its dollar volume was $235-million annually and that it employed 7,500 persons.

JOHN TROTMAN, OF ALABAMA, NEW PRESIDENT OF AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION

Mr. ALLEN. Mr. President, January is the traditional month for changes in leadership for many civic, business and cultural organizations. The American National Cattlemen's Association, one of the most prominent of our national farm-related groups, is no exception, and the new president of the association is fellow Alabamian John Trotman of Troy and Montgomery. This is not only an honor for Mr. Trotman, but it is a signal honor for Alabama because this is the first time in 75 years that a man from east of the Mississippi River has been named president of the American National Cattlemen's Association.

In the Sunday, December 19, 1971, edition of the Birmingham News, Thomas F. Hill, one of Alabama's finest reporters, has written about Mr. Trotman's cattle raising operations and of his efforts to improve the quality of beef grown for the American consumer. 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:

SETS PRECEDENT—ALABAMIAN TO LEAD CATTLEMEN OF NATION

(By Thomas F. Hill)

MONTGOMERY.—Sometime next month a youthful looking, nattily dressed Alabama cattleman will board a jet plane for Denver to attend a convention. He will walk away from that convention as president of the American National Cattlemen's Association.

He is John "Bubber" Trotman, Pike County native who has one of the state's largest beef operations, sometimes moving as many as 1,000 head of cattle in a week.

Elevation of Trotman from first vice president to president is a signal honor for Alabama as well as for the personable cattleman, for this is the first time in 75 years that a man from east of the Mississippi River has been named president of the beef association.

A past president of the Alabama Cattlemens' Association, and long-time active worker in affairs of the state and national associations, Trotman is a Pike County native who was born into the livestock business and elected to stay with it.

"My father was in the horse and mule business and had a good-sized farm devoted to general agriculture," he said.

Trotman presently has about 1,500 acres on his home operation near Montgomery and also has acreage in Pike County.

He was president of the Montgomery County association in 1960, and headed the state organization in 1960. During 1968 and '69, Trotman was regional vice president of the national association, traveling over six southeastern states. He was moved to first vice president of the national association in 1970.

Trotman will have a large cheering section rooting for him at the Denver convention in January, for Alabama cattlemen are chartering a jetliner for the trip and expect to have it filled.

"We have 48 states affiliated with the national organization," Trotman said. "Plus all the breed associations."

Alaska and Hawaii have state associations now. The 1969 convention was held in Honolulu.

Trotman has a strictly cow-calf operation, maintaining a brood cow herd. He also buys steers. The Trotman Cattle Company also operated by him, buys and sells stocker and feeder cattle.

He grows the calves out on grass and then ships them into about 25 Midwest and Western states for feedlot finishing out to market size. He also is a cattle feeder, sending his own cattle to feedlots and then shipping them back.

His ultimate goal is to get a U.S. choice grade out of a steer weighing from 1,000 to 1,200 pounds.

Trotman's cattle are cross bred, with lots of Charolais blood in them.

"We don't care what color they are," he said. "We are interested in gaining ability on grass or the feedlot."

The size of his herd varies, as it is constantly moving. Some days it will expand to several thousand head. He has handled as much as 1,000 in a week.

E. H. (Ham) Wilson, who has guided the Alabama Cattlemen's Association for the past 20 years as executive vice president, said Trotman's elevation to the presidency of the American National Association was something for which the state could feel proud.

"He will make them an outstanding president," Wilson said.

Trotman graduated from Auburn University after attending grade and high schools in Troy. He is married to the granddaughter of the late Mayor William A. Gunter, for whom Gunter Air Force Base was named.

The Trotman's have four sons, Randy, 19, who is associated with his father in the business; John, 15, Charles, 13, and Robert, 9.

JANUARY BIRTHDAY ANNIVERSARIES

Mr. SCOTT. Mr. President, this month we mark the birthday anniversaries of three outstanding American leaders . . . men of different generations, men who were giants.

January 15, 1929, Dr. Martin Luther King, Jr., was born.

January 17, 1706, Benjamin Franklin was born.

January 19, 1807, Gen. Robert E. Lee was born.

Mr. President, the outstanding accomplishments of each of these men have been written in the pages of American history. I think it appropriate that from time to time we reflect upon their innovations, their leadership, their determined efforts to help build this great Nation.

TAX REFORM AND REDISTRIBUTION OF INCOME

Mr. McGOVERN. Mr. President, I ask unanimous consent that a broad program of tax and welfare reform which I recently proposed be printed in the RECORD.

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

TAX REFORM AND REDISTRIBUTION OF INCOME

INTRODUCTION

Many Americans feel themselves the victims of economic discrimination at the hands of the Federal tax system. Although that system is, in many respects, one of the most enlightened in the world, it is an undeniable fact that millions of ordinary, working middle income families pay their taxes as required by law, while many of the wealthy use a variety of devices to escape their rightful tax burden. At the same time, the man in the middle sees billions of dollars going into welfare programs that don't work. In short, many Americans pay their taxes dutifully and feel that others are exploiting the tax and welfare systems.

The most urgently needed change in our systems of taxation and public assistance is to place far greater emphasis on fairness. Each American should feel that he is getting his money's worth and that he is being treated exactly like every other American. Each American should pay his fair share and each American should receive his fair share. That is clearly not the case now.

TAX REFORM

The purpose of taxation

In the United States, taxes pay for those activities which we wish to have carried out by government rather than by the private sector. The costs are supposed to be carried by each income group paying its share and by those within each income group paying a similar amount. The progressive tax system asks those who are better off to bear a greater share of the load than those who have less ability to pay. In general, the progressive system is one of the most positive elements of our tax system.

Individual income taxes

Previous efforts at tax reform have failed to bring our system closer to a truly progressive one. Every effort at reform shows that the cloth of our tax codes is so worn that every patch rips another hole somewhere else. Even more importantly, efforts to promote fairness by giving everyone his own loophole are slowly dismantling the progressive federal income tax.

The actual tax system is just about half as progressive as it is supposed to be, according to the tax rates adopted by Congress. While nominal rates range from 0.1 percent at low incomes to 69.2 percent for those with incomes over $1 million per year, actual rates on average range from 0.7 percent to 34 percent.

Two taxpayers with the same annual income pay quite different taxes. A factory worker or a school teacher whose taxes are withheld from his wages cannot take advantage of loopholes. They may expect to pay almost $1,000 in taxes on earnings of $10,000. A wealthy person who receives $10,000 income from state and local bonds will pay no Federal taxes at all. Clearly this system is unfair.

And these inequities are not theoretical. On the basis of 1969 tax returns, the last year for which figures are available, some 21,317 people earning more than $20,000 paid no Federal taxes whatsoever. That includes 56 people with incomes in a single year of $1,000,000 or more.

Because the effort to close one loophole at a time has been a failure and because to do so would still leave a great number of inequities until all were closed, we should shift to a really effective minimum tax. While a minimum tax was created in 1969 tax legislation, it is actually windowdressing and is not effective. Recent reports indicate that some who earn over $1 million still pay no taxes.

I propose a minimum income tax so that the rich could not avoid their share of the tax burden no matter what loopholes they used. One possible formula would be a minimum income tax to apply to all those with total incomes in excess of $50,000. The entire income of any person in this range would be subject to payment of taxes at a rate of 75 percent of the current nominal rates at the rate that they would have to pay if there were no loopholes. All income regardless of source would be included. (Of course, if the computed tax exceeds the minimum tax, it would be payable.)

If this minimum income tax were now in effect it would bring in approximately $5 billion during the present fiscal year and $6 billion in fiscal 1973. That would amount to about a 7 percent increase in receipts

from the individual income tax. This increase would be paid by the wealthiest 411,000 out of the 76 million Federal taxpayers.

This basic tax reform would not unfairly penalize the wealthy just because they were well off. It would simply insure that they could not dump their tax load onto the backs of already hard-pressed middle income taxpayers.

Corporate taxes

The strength of the American economy is due mainly to the dynamic growth of the private sector led by corporations and other businesses. It is sound public policy to create the conditions for business to function effectively.

The Federal tax system has been used to help the corporations. As Joseph Pechman, one of the leading tax experts in the United States points out: "A special tax on the corporate form of doing business is considered appropriate because corporations enjoy special privileges and benefits." In order to stimulate corporate economic activity, the Federal government can and does alter tax rates. That is the principal form of assistance that has recently been given.

The present corporate tax rate is 48 percent of the taxable base defined by law. (Of this 22 percent is the normal tax which applies, without the 26 percent surtax, to the first $25,000 of corporate net income. This feature is of special benefit to small businesses—some 77 percent of the taxpaying corporations. It should be maintained.)

In each post-war recession, demands have arisen to stimulate the economy through corporate tax reductions. These have taken the form, not of overt rate reductions, but of covert rate reductions in the form of increased depreciation allowances and special devices such as the investment tax credit. Such devices transfer profits from the taxable category to the untaxable category. In the process, the corporate income tax is gradually being abolished.

Because of steady reductions in the taxable base over the past twenty years, the effective corporation income tax rate has been cut in half. There is a real question about how much farther we can go.

The time has come to end the dismantling of the corporation income tax and to reestablish a fair balance between personal and corporate income tax collections. As a result, I have opposed the new depreciation guidelines and the investment tax credit. Special loopholes, such as percentage depletion, need to be phased out, but a broad balance also needs to be established between taxable and untaxable earnings of corporations. As it is, we have tipped that balance too far in the direction of untaxable earnings.

I propose that the actual corporation income tax be returned to its 1960 level by the elimination of the special loopholes that have been opened since then. (About two-thirds of the gap between the present level and the 1960 level results from Nixon Administration cuts in the last year.)

This reform of the corporation income tax would raise approximately $9 billion in the current fiscal year and about $17 billion in fiscal 1973 (based on Administration estimates of increased corporate activity.)

This proposal for increasing the corporation income tax rate does not mean reduced government assistance to business. If the entire McGovern economic program were to be applied, there would be more stimulus to business than is available from the tax privileges now in effect. This program includes an immediate $10 billion fiscal stimulus to create new jobs and use underutilized capacity, economic conversion from a war to a peace economy with the extensive use of government contracting for specific purposes and the Minimum Income Grant, discussed below, which would greatly stimulate consumer purchases. Nothing spurs profits like a strong full employment economy, which has the highest priority in my economy program.

In short, our corporations must be healthy and growing if our economy is to prosper. But we have a wider range of tools at our disposal than perpetual reductions in the corporation income tax.

Estate and gift taxation

Most Americans subscribe to a fundamental belief of our Founding Fathers that we should be allowed to keep a fair proportion of what we earn but should not be allowed to inherit great wealth. Yet, in practice, the loopholes in our gift and inheritance taxes are much greater than those in our income taxes. Just 9 percent of all families own 50 percent of all private assets. More than a quarter of all private assets are owned by less than 1 percent of the population. Although some of these fortunes are based on earned income, most are based on inherited wealth.

Estate and gift tax rates are high—as high as 77 percent on estates above $70,000. But actual rates are a tiny fraction of the theoretical rates.

Estate and gift taxation should be reformed in the same manner as the income tax. Instead of proceeding to close loopholes, one by one, a whole new system needs to be constructed.

Gift and inheritance taxes should shift from a tax on the estate or giver to a lifetime cumulative tax on the recipient. This shift would make it possible to prevent tax avoidance and would be more fair, because it would regard the money received as income to the recipient, which it is.

This cumulative lifetime tax on recipients would mean that we must set a ceiling on the amount that might be received and then place a 100 percent tax on all gifts and inheritances above that amount. Below the ceiling, a progressive tax might be applied with a certain amount excluded from all taxation. Even if the ceiling were set as high as $500,000, the amount of new revenues would be considerable. While it is impossible to calculate the exact amount of such new revenues, a conservative estimate would indicate the doubling of present tax receipts from estate and gift taxes. That would mean additional tax revenues of $4 billion in the present fiscal year and $5 billion in fiscal 1973.

State and local taxes

While the Federal tax system is generally progressive, with room for improvement, the state and local tax systems are far less progressive and do not respond as directly to changes of income of taxpayers. It is well known that there has been excessive reliance on the property tax.

The property tax revolt may be a major issue in the coming months. The Federal government may have to step in to allow for a reduction of property taxes used to support education—perhaps their complete removal. As I indicated in July 1971 in my proposals on revenue sharing, the states should be given the incentive to raise more of their revenues from progressive income taxes. In addition, the Federal government should take over at least a third of the total bill for primary and secondary education. Funds should be distributed to school districts in line with an equalization formula as is outlined in my revenue sharing proposals.

It has been suggested that a value added tax, which in effect is a national sales tax, should be used either as a method of increasing Federal tax revenues or as a method of reducing or eliminating the property tax or both. I disagree. In the first case, we should increase individual and corporation taxation, as indicated, rather than resort to the national sales tax. In the second case, a shift to the value added tax would represent a retreat from the far sounder revenue sharing aproach. In addition, while the Federal government should assume a greater share of the cost of education, certain local services are associated with the ownership of property, and there is thus a justification for some property taxation. Also, as mentioned above, the property tax can be cut by a shift to more progressive forms of taxation by the states.

In any case, the value added tax or national sales tax is against the interest of middle and low income people. It is a regressive tax on consumption, which cannot, of course, be reduced beyond a certain point necessary to insure a decent life. And it represents a backdoor method of increasing individual taxes just after a reduction in taxation on individual incomes has been enacted.

Conclusion

The Federal tax system is basically sound, although it has been riddled with special privileges for the rich. We should move now to establish a fair tax system for all Americans.

The reforms of the Federal tax system relating to individual and corporation income taxes and to estate and gift taxes would result in additional revenues of about $18 billion this fiscal year and $28 billion in fiscal 1973. This amounts to an additional $140 in Federal income for every man, woman and child in the United States. Depending on how these additional revenues were applied they could bring about the reduction or elimination of the local property tax for education; spent on other urgent national needs such as rebuilding our cities, pollution control, adequate nutrition for all; or could go a long way toward financing the Minimum Income Grant program, discussed below.

REDISTRIBUTION OF INCOME

The need for redistribution

The present tax system contains inequities because it does not levy a correspondingly fair burden on all taxpayers. While the rich benefit from the tax system, middle income groups and low income groups including the poor do not receive such benefits. Those with medium incomes find they are paying their taxes but not receiving either the kind of tax breaks given to the wealthy or the kind of public assistance payments made to the poor. The poor find that, as soon as they go to work, they are subject to extremely high rates of income taxation because of their sudden sharp reduction of public aid when they earn their first dollar. The net result is mounting frustration for those in the middle and a future of poverty for those who are heavily penalized when they seek to work their way out of welfare dependence.

There are other weaknesses of the public assistance or welfare program. Many people in need are not covered; family groups are penalized; benefits are insufficient; migration from one state to another is encouraged; extensive controls are applied; and it is possible for taxpayers to be worse off than those receiving public assistance.

A number of welfare proposals are now pending before the Congress. I sponsored the proposals of the National Welfare Rights Organization in an effort to insure that benefits will take into account real needs. Naturally these proposals deal only with those on public assistance—not medium income taxpayers. Some of them represent major improvements in the present system. But none of them offers the broad application of the Minimum Income Grant described below. Even the negative income tax proposal has the defect of creating or, more properly, maintaining a two-class society—those who pay and those who receive.

The minimum income grant

I propose that every man, woman and child receive from the Federal government an annual payment. This pavment would not vary

in accordance with the wealth of the recipient For those on public assistance, this income grant would replace the welfare system. It has also been suggested that the national income grant could replace certain social security benefits.

There are a number of methods by which this proposal could be implemented. Some are discussed here. These methods require full examination by the best economic talent available, and the plan chosen must have the support of the President, if it is to have any chance of adoption, for those reasons, the present proposal is not designed for immediate legislative action. Instead, it represents a pledge that, if elected, I would prepare a detailed plan and submit it to the Congress.

One proposal calls for the same payment to be made to all Americans. This is the credit income tax idea, proposed by Professor Earl Rolph, and more recently associated with the name of Professor James Tobin of Yale, immediate past President of the American Economic Association, former member of the Council of Economic Advisors and a member of the National Economic Advisory Group of the McGovern Campaign. Using a 1966 base, Professor Tobin suggests a payment of $750 per person. At the present time, a payment of almost $1,000 per person would be required. This would amount to $4,000 for a family of four—just about the official poverty level boundary.

Another formula has been suggested by Leonard Greene, President of the Safelight Instrument Corporation of New York. Under his "Fair Share" plan, each adult would receive $900 a year and each child would receive $400. This would amount to $2,600 for a family of four.

It should be stressed that neither of these proposals relates to the size of the family unit; the payments are made on an individual basis. Thus, there would be no incentive for a family to break up in order to receive higher total benefits.

A third formula would involve payments according to the family group. Joseph Pechman of the Brookings Institution has shown that: "The relative incomes that would provide roughly equivalent standards of living appear to be in the ratio of 75:100:25 for single, married, and dependent persons, respectively." The payment of the Minimum Income Grant could be made according to such a formula. In this case, adequate account would be taken of those who receive welfare and who live alone.

Financing the minimum income grant

As redistribution of income, the Minimum Income Grant would represent no additional cost to the Treasury. Funds to finance the grant would be expected to come from those above a designated break-even income and would take the form of additional taxes. If the break-even income for a family of four were set at $12,000, about 20 percent of Federal taxpayers would experience a tax increase, while about 80 percent would be able to keep all or part of the grant. It is expected that those below the poverty line would keep all of the Grant, while those between the poverty line and the break-even point would keep a gradually decreasing amount as their incomes rose. The loss of Grant benefits would thus be sufficiently gradual as not to discourage those on welfare from seeking a job (in fact, it would encourage them to seek work) and would provide a significant income supplement to the millions of Americans in the medium income range. Thus, for example, a family of four with its own income of $8,000 would be able to retain an additional $2,000 of the Minimum Income Grant.

Professor Tobin's explanation of the credit income tax suggests that the grant would be tax-free but that each person would be required to pay a uniform income tax to the Federal Treasury (a 33.3 percent tax is suggested with the $750 payment). Although this might seem to be a regressive tax, the tax credit resulting from the Grant would cause it to have a progressive effect. While taxes would be much higher for the wealthy, others would receive significant tax relief. Professor Tobin uses the example of a family of four with an income of less than $9,000 that would pay no taxes at all.

This credit income tax proposal would imply a redistribution of income of some $14.1 billion from those above the poverty line to those below it. The redistribution from those above the break-even income line to those below it but still above the poverty line would amount to $29 billion. These figures demonstrate that while the Minimum Income Grant would represent a total reform of the present welfare system, it would actually provide more money to medium income taxpayers than it would to the poor.

Leonard Greene's Fair Share would be financed by the present progressive tax system plus a 20 percent tax surcharge on all taxpayers. The Minimum Income Grant, according to Mr. Greene, would not be tax exempt. This proposal distributes the cost over a greater number of taxpayers but the burden on any one of them is lower than under the credit income tax formula.

It would not be necessary to finance all of the Minimum Income Grant by tax increases. The billions of dollars saved in welfare benefits and the cumbersome administration of the welfare system—a total since it began of $9.6 billion or $1.4 billion in fiscal 1970—could be allocated to the Grant. It should be noted that this procedure would represent a major saving for states and localities which would not be required to finance the welfare system and could use the resulting funds—an estimated $5 billion—to lower property taxes. This step would represent additional income assistance to medium income taxpayers. (To the extent that social security payments were replaced by the Grant, social security funds could be used to finance the system.)

In addition, the revenues resulting from the kind of tax reform proposed earlier ($28 billion in fiscal 1973) could be applied to the Grant.

Finally, the justification for the personal exemption on individual tax returns would be removed by the adoption of the Minimum Income Grant. If the personal exemption were removed, the Federal Government would receive $63.6 billion in additional tax revenues. These funds could also be applied to the Grant.

MINE LIFESAVING APPARATUS

Mr. SCOTT. Mr. President, on Monday, at the Smithsonian Institution, a lifesaving apparatus used in the mines of Pennsylvania and produced by a firm in Germany was presented to the curator of mining for the Institute's division of agriculture and mining.

This device, manufactured in 1903 by Draegerwerk AG in Lubeck, Germany, is one of the first oxygen breathing units developed. More refined mine rescue equipment is now being developed by National Mine Service of Pittsburgh and distributed throughout the United States. My colleagues from the mine-producing States are well aware of the values of this type of equipment in sustaining the men who work the mines.

Kenton E. McElhattan, president of National Mine Service Co. of Pittsburgh, made the presentation of the apparatus, manufactured in 1903 by Draegerwerk AG in Lubeck, Germany, to Dr. John N. Hoffman, curator of mining for the Institution's Division of Agriculture and Mining.

The mine rescue unit and other historical photographs and literature to be presented by National Mine Service will be displayed temporarily, beginning February 1, in the special exhibit case of the Smithsonian Institution's National Museum of History and Technology. Dr. Hoffman said the rescue unit will be displayed permanently in the new Hall of Mining, to be constructed soon by the Museum of History and Technology.

The mine rescue unit, identified as Draeger Model 1904/09, was manufactured in Germany and several thousand units were sold in the United States by Draeger Oxygen Apparatus Co., which was located at 422 First Avenue in Pittsburgh at the turn of the century.

INCOME REDISTRIBUTION

Mr. McGOVERN. Mr. President, the income redistribution scheme that I outlined this morning contains the germ of a welfare reform proposal. It sets out the principle that every man, woman, and child is entitled to at least the minimal standard of living provided out of a payment per person of $1,000 per year. The details have to be worked out, but the concept is a simple one. I have made no mention of categories of eligible and ineligible poor, of worthy and unworthy poor. There is no reference to how the money must be spent, or how the lives of recipients must be lived.

All of us are being asked to line up with one or another of the "welfare reform" proposals now before the Congress. From one side we are hearing that all of the proposals go too far and therefore none should be accepted. From the other side, we are being told that if the proposal already passed by the House can be sufficiently improved by the Senate, it should be acceptable as the best that can be obtained for the moment.

The welfare reform debate of this 2½ years has been a curious one. In the past, reforms were offered because of new information or new evidence that made the old approaches inappropriate. This debate has been different. The President offered a new approach while at the same time accepting all of the myths that caused the old system to become a failure. He offered no new evidence or information; his new approach was to be applied, it seemed, to the same mythical lazy, irresponsible, immoral people who Congress and the public have always been reluctant to support. Not surprisingly, Congress has been reluctant to once again enact a law, only to see its objective unfulfilled.

My friend and colleague, the Senator from Connecticut (Mr. RIBICOFF), has attempted to turn the debate around. He wants to establish the truth that we can only achieve a reformed welfare system if we understand those old myths to be unfounded. The Senator fights the accumulated misconceptions of many years, as well as the newly minted myths of these past 2½ years. But his remarks published in last Sunday's Washington Post, which I will ask unanimous consent to have inserted in the RECORD, underscore the need for us to proceed with caution. He makes clear that any proposals establishing a new system unwisely based on old myths

is doomed to totter and eventually fall of its own weight. There is yet another aspect to this debate that should be carefully considered. Even if the Senate should pass the most desirable legislation possible, there will likely be substantial compromise required before a bill emerges from conference. If one-half of the equation continues to rest upon the myths and prejudices while the other rests upon reality, then the final product may well be unworkable.

The uncertainty on this issue of many Members of Congress, whatever its source, may yet prove valuable to the cause of true welfare reform. We can recognize and respond to the very pressing financial needs of our States without embracing a new program based on the faulty principles of the past. The fate of no less than 25 to 40 million poor Americans is at stake. We need not, we should not rush from old mistakes to new ones. This time we must be sure that our welfare system really achieves what we all wish for it.

I ask unanimous consent that the remarks of Senator RIBICOFF be printed in the RECORD.

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

THE MYTHS OF WELFARE

(By Abraham A. Ribicoff)

No domestic issue confronting the country or the Congress is the subject of more myths and misinformation than the question of reforming our archaic welfare system. Fortunately, a broad spectrum of political leaders recognize that this program needs a drastic overhaul. No one supports the present system and it supports no one adequately.

More than 2½ years ago, President Nixon announced his proposal for a dramatic reform of our welfare system, which now includes at least 1,150 separate administrative units in 54 different jurisdictions. While major improvements are needed in the President's Family Assistance Plan, or FAP as it has come to be called, the President deserves great credit for bringing this matter to the public's attention.

A few weeks ago in this space, Sen. Russell Long (D-La.), Chairman of the Senate Finance Committee, gave his views about needed welfare reforms. At times you would never know we were talking about the same system. All of us agree that something needs to be done, but our suggestions reflect our differing perceptions of the nature of the problem.

Both the President and Sen. Long have stressed the need to support the "work ethic" and to get loafers and cheaters off the welfare rolls. The clear implication is that welfare reform is somehow going to save us millions, if not billions, of dollars.

But the problem of welfare is not a problem of loafers, cheaters and ne'er-do-wells. The problem is 26 million Americans living in poverty. For these people the "welfare mess" is not one of increasing financial burdens on state and local governments. Nor is it the cheating and loafing which many Americans believe to be widespread.

For millions of Americans, the problem is getting enough food to eat, enough clothes for their children, enough heat for their apartments. The welfare problem for them is also finding work in an economy in which more than 5 million people are unemployed and finding adequate day care for children in a society which has so far failed to provide decent child care programs. In short, the "welfare mess" to the recipient is the "mess" of a system which provides inadequate benefits and exacts a heavy price in human dignity and privacy.

The Senate will resume hearings this week on H.R. 1, which has already passed the House. If we continue to debate this issue only in terms of the mythical millions of cheaters and loafers, we run the real risk of constructing an unwieldly and inhuman system of primitive measures which ignore or slight the legitimate needs of the 95 per cent of those on welfare through no fault or failing of their own.

THE "LOAFERS" MYTH

Virtually everyone agrees that all able-bodied adult males should be working rather than depending on public assistance. The myths arise from the assumption that many of the 13 million Americans on welfare are able-bodied males. The President's continued reference to "workfare," as he puts it, implies that that's where the emphasis needs to be put. In a recent statement the President said, "We are a nation that pays tribute to the working man and rightly scorns the free-loader who voluntarily opts to be a ward of the state." Sen. Long likewise focused his recent comments on the need to make people work.

In fact, less than 1 per cent of those on welfare—126,000 people—are able-bodied, unemployed adult males. Of these adults, more than 80 per cent want to work, according to a government-sponsored study. And about half the men are enrolled in work training programs hopefully designed to make them more employable. This is hardly the picture of millions of slackers making a full-time job out of avoiding work.

The rest of the welfare population includes children (55 per cent), the aged (15 per cent), the blind or disabled (9 per cent) and welfare mothers with children (18 per cent). Even the most outspoken advocates of "workfare not welfare" have not proposed requiring children, the aged or the blind and disabled to work. Yet these groups make up almost 70 per cent of our welfare population.

This leaves us with welfare mothers. Some 14 per cent of these women already work, and 7 per cent are in work training. An additional 35 per cent could work if adequate day care programs were available for their children. Five per cent would have employment potential following extensive social rehabilitation efforts, and the remaining 40 per cent have little employment potential because they care for small children at home, have major physical or mental incapacities or other insurmountable work barriers. Despite all these barriers, 70 to 80 per cent of welfare mothers desire employment.

What the adults on welfare lack is not the incentive to work but the opportunity to work. The President and Sen. Long can talk about "workfare," but they have not explained where we will find the jobs needed in an economy that already is unable to provide work for 5 million unemployed Americans.

Sen. Long suggests providing deductions for those hiring domestic help to generate jobs. Aides from the destructive psychological effects resulting from creation of a "welfare servant" class, tax breaks for the well-to-do would not open up enough jobs for those who need them.

WELFARE CHEATERS

The myth that welfare fraud is widespread is also erroneous, according to all available evidence. Suspected incidents of fraud or misrepresentation among welfare recipients occur in less than four-tenths of 1 per cent of the total welfare caseload. No more than 5 or 6 per cent are technically ineligible because of a misunderstanding of the rules, agency mistakes, or changes in family circumstances not yet reflected in payment checks.

The many publicized charges of large-scale cheating simply have not stood up under investigation. But the true facts did not receive the same attention as the original charges. It was widely reported in the media, for example, that 22 per cent of the Nevada welfare caseload was found ineligible by that state. A follow-up investigation by the federal government showed that the ineligibility was only in the 3 per cent range. In New York City it was widely reported recently that 18 per cent of the assistance recipients failed to make a personal appearance to claim their welfare checks, as required under a new law, leaving the impression that those 18 per cent were fraudulently on the welfare rolls. Again, a follow-up investigation showed that legitimate reasons unrelated to fraud existed for failure to claim the payments for all but a small minority of the 18 per cent.

Neither I nor President Nixon nor Sen. Long condones welfare fraud. We must do whatever we can to combat it. But it must be placed in its proper perspective. It is only one point to be dealt with in a major overhaul of the welfare structure. The fraud we should be most concerned about we will never find among the people we are trying to help. The fraud we should be on the lookout for is the welfare program itself—in its failure to bring to the poor and destitute a semblance of dignity and minimal comfort.

DESERTION AND ILLEGITIMACY

A third myth which permeates the debate is that the welfare problem revolves around desertion and illegitimacy.

Sen. Long believes that the "welfare mess" is essentially caused by an increase in the welfare rolls due to illigitimacy and desertion. The beginning of his welfare reform program would be a federal child support law in which the federal government would assist mothers in locating the fathers of their children with the help of the Internal Revenue Service, Social Security Administration and other agencies.

I agree that fathers should support their wives and children. The best way to achieve this goal, however, is to attack the cause of the problem. The sad reality is that our welfare system as now structured encourages the disintegration of the family unit and virtually forces fathers out of their homes. In most states a mother with children can receive welfare benefits only if there is no man present in the house. Thus if the husband is unemployed or making a substandard wage, his only choice for the financial good of the family is to desert, thereby making the family eligible for welfare. Desertion is not a "cause" of the welfare mess, but rather the "effect" of a poorly structured system.

The Family Assistance Plan, with certain modifications, would be a major step toward eliminating the cause of desertion. Under FAP, welfare benefits would not be stopped if there were a man in the house. In fact, it would always be to the financial advantage of the family for the father to be living at home and working. He would be allowed to earn money, and welfare benefits would be only gradually phased out as he earned more.

The companion problem of illegitimacy also should be placed in its proper perspective. The facts are that the average welfare family has only three children. This is only slightly above the national average for all Americans. While a certain proportion are illegitimate, we should also recognize that one-third of all first-born children in this country born between 1964 and 1966 were conceived out of wedlock. In addition, H.R. 1 as amended would provide family planning services for those who desire such assistance. This aid has been available for years to upper- and middle-income families through their private physicians.

PUBLIC SERVICE JOBS

If we are truly interested in reform, let us discard the myths and the rhetoric. For those unable to work, assistance must be provided. Even the strongest opponents of FAP would admit that responsibility. (In fact, Sen. Long stated in The Washington

Post that the minimum standard of living for a woman and three children living in a city should be about $3,000—the amount I have proposed for the first year of the Family Assistance program.)

For those able to work, let us not give them rhetoric about "workfare" and the "work ethic." Let us not encourage employment only through indirect methods such as tax breaks for the rich designed to create a welfare caste working class. We must go directly to the heart of the problem and provide meaningful jobs for those who can work—as many as need to be created. No "make-work" program is needed. The deterioration of our cities, environment and health services makes it clear that much needs to be done in public service at the state and local level. It is estimated that local governments could easily use 3 to 4 million more employees to provide basic services.

What must be added to the President's program is funding for 300,000 public service jobs at no less than the federal minimum wage. If more jobs are needed, they should be created. It is futile to continue mouthing the "work ethic" rhetoric and to continue requiring people to register for work training unless jobs are available for all those able to work.

Even guaranteeing jobs by themselves will not begin to make employment a meaningful concept for many of those on welfare. The day care facilities of this country are woefully inadequate and the President's recent veto of the comprehensive day care program, together with the inadequate day care provisions of H.R. 1, only undercut his efforts to provide work for those on welfare. More day care is needed.

But we will be kidding ourselves if we focus all of our energies on the poor who can work. We must also provide a decent minimal standard of living for those millions of poor unable to work, a group that includes more than three-fourths of those now on welfare. To save money on welfare we will have to spend money—money to provide a system that opens opportunity for this generation's welfare children to become the next generation's productive citizens.

In effect, H.R. 1 is a proposal for a guaranteed minimum annual income—very minimum—but guaranteed nonetheless. The President has not been candid with the American people about this for fear, apparently, that they would object. But why should they? We provide assistance to millions of other Americans without any qualms. Only the names of those subsidies have been changed to avoid the tarnish of the word "welfare."

Perhaps we could keep things in better perspective if we took Herbert Gans' suggestion and relabeled all of our subsidies and tax loopholes with more realistic names—the "Oil Producers Public Assistance Program," "Tobacco Growers' Dole," "Aid to Sick and Dependent Airlines," and "Tax Relief for Purchasers of Tax-Exempt Bonds."

Ultimately, we must be willing to admit that welfare is a confession of our society's failures in education, employment and housing. We now spend less than 1½ per cent of our trillion dollar economy on welfare and less than 5 per cent of government spending at all levels. Even spending 2 per cent of our gross national product for welfare, as I propose, is a small overhead to pay for the inadequacies and inequities of our system. We can afford to do no less.

DR. EDWARD L. R. ELSON, CHAPLAIN OF THE SENATE

Mr. SCOTT. Mr. President, I note in yesterday's Washington Post that our good friend, Dr. Edward L. R. Elson, the Senate Chaplain, has announced his resignation as pastor of the National Presbyterian Church. His reason: He wishes to devote more time to his duties as Senate Chaplain and he plans to function as what he refers to as a preacher at large.

Dr. Elson is a product of the great Commonwealth of Pennsylvania and still has a family there. He has chatted with me on numerous occasions about our Pennsylvania problems and certainly is a stimulating gentleman. Just recently he accorded me a special honor when he selected my pastor in Philadelphia to offer the prayer to open the Senate on 1 day when Dr. Elson was giving the principal address at a graduation ceremony at a Pennsylvania college.

I know that Senators will join with me in expressing our appreciation to Dr. Elson for his untiring service to the Senate. I, for one, look forward to seeing him even more frequently throughout the session.

ADDRESS BY SENATOR KENNEDY TO THE WASHINGTON PRESS CLUB

Mr. MANSFIELD. Mr. President, Members of the House of Representatives as well as others have attacked the senior Senator from Massachusetts (Mr. KENNEDY) regarding a speech he delivered to the Washington Press Club earlier this week. The senior Senator from Massachusetts (Mr. KENNEDY) strongly believes in the convictions he holds and expresses them with honesty and candor.

In view of the much publicized criticism of Senator KENNEDY, I believe the American people should have the full text of his remarks and judge for themselves.

I ask unanimous consent that the full text of Senator KENNEDY's remarks be printed in the RECORD.

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

ADDRESS OF SENATOR EDWARD M. KENNEDY TO THE WASHINGTON PRESS CLUB, WASHINGTON, D.C., JANUARY 17, 1971

I am honored to be here with you this evening and to have the opportunity to address the Washington Press Club on what I see as the major challenges facing Congress and the nation in 1972.

This is the time of year to assess the state of our national spirit, a spirit now in crisis.

It is a crisis of performance, as we see our government unable to manage the economy, and American business and labor subjected to withering competition from foreign nations.

It is a crisis of violence, for even as the fires of urban riot that so disfigured America a few years ago seem of late to have been banked, yet the violent impulse that gave them birth has survived, broken into a million tiny ripples, a hundred daily murders, ten thousand assaults, and uncounted other crimes by Americans against their fellow citizens.

It is a crisis of morality and idealism, which sees us still heaping destruction on a small and alien land, even as we see terrible cruelties in our own country, so that the names of My Lai and Kent State and Attica are seared forever into the American soul.

This cumulative crisis of the spirit is felt by us in many different ways. There can be few who do not feel it at all. And, however we analyze the causes of our present concern, we share a common judgment. This is not why we labored and our fathers sacrificed. This is not why men served and martyrs died. This is not why we raised such hopes when the decade of the 1960's began, such a few short years ago.

The crisis is not the creation of any single man, nor was it manufactured by the Administration now in power. But if our current difficulties run deeper than any single Administration, they also show how much we need direction from the top.

In times like these, the American people have traditionally turned to their President for leadership. They demand a sense of national purpose and inspiration they can identify with, participate in, be proud of. For above all, they have a deep and profound sense of belonging to this country and its historic purpose. That sense of purpose is what we must struggle to recapture. There could be no better year to begin than now.

A FOREIGN POLICY FOR THE PEOPLE

The first and most important issue, the one that leads all the rest, is the issue of the war. It may be true that Vietnam is not so desperate a problem now as it was three years ago. Our involvement on the ground has been reduced.

Troops are coming home. And this is an enormous improvement over the policies of prior years. But the war has also been extended into Laos and Cambodia, and now, perhaps, to Thailand. No one thinks that the bombing is winding down.

These foreboding signs illuminate the paradoxes of our policy. We are withdrawing, but not completely. The South Vietnamese are supposed to defend themselves, but American forces must stay on to help. The war is largely on the ground, but our ultimate answer is still from the air.

If ever a President was elected to end a war, to wash away the stain brought on us by Vietnam, Richard Nixon was elected for that purpose. With far less outcry in the nation at the time, President Eisenhower vowed to end the Korean War in the campaign of 1952, and by 1954, America was at peace.

Now, four years have passed since 1968. Twenty thousand more Americans have died, and still the war goes on. We know that the monstrous bombing will continue. And we know that thousands of soldiers of North and South Vietnam, and tens of thousands of innocent men and women and children, will die in Indochina in 1972, for the simple reason that President Nixon will not allow the Saigon Government to falter until he is secure at home for another term of office.

I believe there is no more to the discussion of Vietnam than that.

The regime of President Thieu is nothing but a minor trapping of American power, a regime that, when we leave Vietnam, will immediately wash away in the stench of its own inconsequence and incompetence and corruption. It is for this that Americans and Asians still die, for this that American bombs still ravage four small nations for this that American prisoners still rot in Hanoi.

President Nixon holds the key to release the prisoners in his hand, as surely as he held the key that released James Hoffa last December, and the sooner he unlocks the door the better.

Let us end completely every aspect of our military involvement in Vietnam, once and for all. Let us abandon every one of the false dreams that led us into that swamp. Let us admit that as all men make mistakes, so do nations, and that we are large and courageous enough to disdain false pride, repair our errors, and seek the path of decency once again.

The failure of our Vietnam policy is matched only by the shame of our policy toward India and Pakistan. Intoxicated by the acclaim at home for the magnificent new policy toward China, in debt to Pakistan for

her assistance in launching the new policy, the Administration shut its eyes to months of brutality and repression in Bangladesh, while India staggered under the burden of millions of refugees crossing her border to escape the killing.

We failed our very history when we allied ourselves with the cruel effort to halt the birth of a nation that had voted to be born.

And then, when the provocation was too great and India struck back, the Administration finally spoke, but in cruel words that called India the sole aggressor in the conflict and left Pakistan absolved of any blame.

The India-Pakistan war has become the Achilles heel of the Nixon foreign policy. It demonstrates how warped our policy really is, how prostrate toward Peking our policy has become.

Of course, the President deserves great credit for his new approach to China. The policy is right toward China, and let us pray that history does not tell us that the price we paid was wrong, because we lost sight of other nations and deeper values.

Let us not be led astray by our morbid preoccupation with Vietnam of our new-found fascination with Peking. Let us sound instead a new theme in American foreign policy. Let us return to the reality of who we are and what we are supposed to be—a nation born of revolution, a nation of immigrants, a nation of people in love with the pure idea of freedom. The treaties and alliances of the past have served us well, but they were designed for a bygone era, an era as obsolete as our China policy used to be. The world has now moved on, and America is being left behind.

We should tell the world that we are the friend of individual worth and human dignity, the enemy of poverty and pestilence, disease and malnutrition.

If, in this new day, we need Greece to stand against Russia, if we need Arab oil when the life of Israel is at stake, if we need Portugal to arrange our summits, if we need Pakistan to get to China, if we need dictators to preserve our interests in Latin America, if we need chrome from Rhodesia and sugar from South Africa, if we stand silent before torture in Brazil and Northern Ireland, then we do not understand the direction of the world. We deny our heritage. We deny our Declaration of Independence and our Constitution and our Bill of Rights.

Let us ask the American people this year a simple question—with whom do we wish our government to keep faith at this crossroad leading into the final quarter of the century—the few whose power stems from tyranny and oppression, or the billions who seek a decent life of hope and freedom for their children? I have faith in the answer of our people. Together, let us share the pride of a policy for the people of the world, a policy that puts America where our soul and our traditions tell us we should be.

A DOMESTIC POLICY FOR THE PEOPLE

We are accustomed to being perplexed by the world beyond our borders. But in the past decade, we have come to a sense that we do not understand even our own society, or even our own selves.

And yet, the central issue of domestic policy is really quite a simple one—are we going to have a government that is responsive to the people, or only to the special interests?

Do we want welfare only for Lockheed and the giant farmers, and not for those who live in poverty? Shall we spend our dollars on a space shuttle and an SST for the few to fly the heavens, when the many here on earth have simple unmet needs like homes and schools and health?

How can we have the confidence of the people, if we have leaders who stand squarely with the insurance industry and the American Medical Association against health reform, with the National Rifle Association against gun control, with the oil industry against tax reform, with the highway lobby against mass transit?

These are the sort of questions we have to ask, because they cut across all the specific issues now before us. And once the people understand and begin to stir, we shall end this era of trouble and discontent, and rediscover the meaning of government by the people.

Together, then, let us examine six great issues for America in 1972. Let us ask what the government has said and done. Let us ask what the people want.

THE ECONOMY

We begin with the economy. No one disagrees that the overriding domestic issue of the year will be our economic strength.

We know that a sound economy is the greatest social program America ever had, the foundation on which all our other goals depend. Only by solving the problems of the economy can we buy the time we need to meet the great domestic issues of our day.

Yet, the problems of Phase II and the actions of the government fill none of us with confidence that the Administration means to persevere, if the merits of the issue prove inconvenient as the campaign plans unfold. And, if the job is abandoned before the work is done, we will pay for years to come for marching this nation up and down the hill of wage and price controls.

In the area of unemployment, the promise is no better.

The Administration meets the problem with excuses instead of programs. They are quick to explain why things go wrong, but slow to make any effort to anticipate or solve the problem.

Again and again we hear the explanations, as they attempt to shift the blame. They blame this, they blame that. They blame returning veterans from Vietnam. They blame women in the labor force. They even blame the teenagers. They blame everyone but themselves. All the people want is jobs, but they are ignored and unemployed.

THE CITIES

The next great issue for the nation is the crisis of our cities. There are some who believe that because the cities are not burning, their problems can be ignored. I think those people are misleading the nation and themselves.

How can the Administration turn its back on housing for the inner cities? How can they freeze a billion dollars for the cities, and shut off the meager rescue that Congress tried to send last year? Is it just so that the flow of funds can be restored in 1972?

The people know the need, and they know that tomorrow is too late. Today, the cities of the nation are tense with poverty and despair—full housing built for the waves of immigrants a century ago, public facilities that are overcrowded and understaffed, streets that are choked with traffic, parks decayed, human values lost in the desperate search for the food and clothing, the health and housing, that people need to live.

The decade of the Seventies should be a decade of reconstruction for urban America, a decade of concerted effort to end the shameful conditions that exist. Without changing a single piece of federal legislation, but simply by directing dollars to our real priorities, we can begin that reconstruction. If we can build new suburban satellites in Maryland and Virginia, surely we can also build new cities in Harlem and Roxbury, in Watts and Woodlawn, in Atlanta and Anacostia, and do all the other things we have to do to make our cities whole.

WELFARE

The third great issue for the nation is the choice we face on welfare.

The most tragic aspects of the legislation now before the Congress are the appeal it has to those for whom the politics of poverty means another chance to push the poor around and the appeal it has to those who are so insulated from the problems of the poor that they do not really understand the despair that poverty can bring.

What sense does it make, in an economy with unemployment at 6.1%, to require people to look for work that does not exist?

What sense does it make to tell the poor they can have food and clothing and housing, but only if they register for jobs that are not there?

What sense does it make to talk so much of work when 70% of the people who need welfare are the blind, the halt, the lame, the very young and others who cannot work at all?

What sense does it make that a President so hostile to the bureaucracy of Phase II now wants a massive new bureaucracy to force the poor to work?

Jobs are the key to welfare, but not the way the Administration means. What we need is a serious national program to create the jobs that are so desperately needed by white and black America—not make-work, but real jobs. Not at poverty pay, but at pay that enables a man to hold his family together and bring hope to the dreams his children have.

The problem is the same for engineers laid off in Florida and California as it is for blacks in any urban ghetto. When a family has no job, it has no money. It cannot meet its daily needs in areas like health, nutrition, education, and housing. The family itself begins to disintegrate. Crime begins to flourish. Whole communities begin to die.

If all we do is enact a bill like H.R. 1, as the Administration wants, we shall have a law that is primitive in philosophy, pitiless in substance, and punitive in practice. We shall be creating a permanent new pauper class of the American population, forever estranged from their fellow citizens, living not as the rest of us by the labor of their own hands and minds, but by a meager computerized assistance check. Generations of our children will be reared, not in independence as free Americans, but under the constant watchful eye of the government bureaucracy.

That is not the true path of the American spirit, and it is not the path that Congress should travel in 1972.

HEALTH

The fourth great issue is on health.

If you think we have a system that is working well today, ask the person next to you. Ask a mother who tries to call a doctor after dark. Ask a man who lost his health insurance because he lost his job. Ask a senior citizen whose Medicare has run out. Ask anyone who ever paid a bill or tried to file a health insurance claim.

Our people will never get fair value for their enormous investment in health care unless we break the stranglehold of the health providers and the health insurance companies. We have a mammoth health care crisis because we have a mammoth health care system that works well only for the few. It works well for the doctors. It works well for the hospitals. It works well for the insurance industry. It works well for everyone but the sick.

And it is the people who pay the price for this enormous profiteering. They have been sold a bill of goods for a system that is marred throughout by high cost and inefficiency, by inconvenience and incompetence, and by implicit or outright fraud.

I do not believe that Congress will be a party to the passage of any health insurance bill that maintains such vital flaws. We stand on the threshold of real reform. And 1972 can be the year when we cross that threshold, and fulfill at last the promise that health is a basic right for all our citizens, not just an expensive privilege for the few.

SCIENCE

The fifth great issue for the nation is the challenge to redirect the energies of science.

For a generation, science in America has thrived on defense and outer space. Our triumphs have been legends. We have become strong beyond our deepest dreams or needs.

Now, we have other dreams, and other needs to meet—needs that go by names like health and education, crime and poverty, transportation and drug control. And because the needs are great, we can no longer afford the luxury by which we focus science elsewhere, and depend on spin-offs to meet our basic social goals.

Who dares to claim that the promise of science is even remotely matched by its performance, when we propel nuclear aircraft carriers around the globe on a bucketful of fuel, yet our cities are plagued by blackouts; when we harvest more crops per acre than our ancestors could cultivate for miles around, yet millions of our children live in hunger or die of malnutrition.

Let us commit ourselves to narrow the awful gaps between potential and reality in modern American science. And if we do, then the resulting benefits will accrue to all the people, for generations to come.

RACE

The last great issue is on race. With the possible exception of foreign policy, nothing I have mentioned so far is as vital to the long-run well-being of the nation, as the direction we choose on race. Americans are a decent people, and they want to do the decent thing. They do not like to think we are a racist society, and they do not like to hear it said.

But if a man or woman is young and gifted and black in America, he knows that his dreams have different boundaries. And he knows that now, for the first time in his life, those boundaries have stopped expanding.

Examine the record of our six modern Presidents, and you see how the march of history has been halted.

Franklin Roosevelt built the first true coalition that embraced black Americans as members of society. He restored their faith that the nation could reach out to its weakest citizens.

Harry Truman ordered the end of segregation in the armed forces of the nation.

Dwight Eisenhower proposed the first substantial Civil Rights Act since the Civil War. He founded the Civil Rights Division in the Department of Justice as a monument to his concern. He stood with Earl Warren and the Supreme Court, against the darkness that threatened to consume Little Rock and the nation in the wake of the historic school decision.

John Kennedy stood with Martin Luther King, and proposed the most sweeping civil rights legislation in our history, the Civil Rights Act of 1964.

Lyndon Johnson presided over the enactment of that bill, and then went on to sponsor his own historic measure, the Voting Rights Act of 1965.

And, now, in the fourth year of the Presidency of Richard Nixon, the chain has broken, the progress has stopped, there are no achievements to cite. Twenty-five million black Americans starving for the bread of hope and notice, and all they have from the Administration is cake inscribed with names like Carswell and benign neglect, and opposition to every meaningful civil rights bill that Congress tries to pass.

In American history, you have to go back to the Era of Reconstruction to find a comparable abdiction by the Federal Government of its responsibility for civil rights.

Black America lies becalmed today, half way between hope and desperation. And unless the Administration acts more positively now, it would be a wiser man than I who could predict the direction we shall move when the wind begins to blow again.

Let us restore the promise and sense of progress we used to have, before it is too late. Let us resume the work our friends and brothers began.

And perhaps, in 1976, when we meet to celebrate the Declaration of Independence, we can read those brief immortal words, that "all men are created equal," and be able to persuade black America that when it says "all," it means "all."

CONCLUSION

As these remarks have shown, the list of our goals in foreign and domestic affairs is large, and it is large because we have left so much undone.

Our present difficulties do not flow, I think, so much from the fact that people mistrust their government, as from the fact that the government so obviously mistrusts the people.

And yet today, as so often in the past, the people are far ahead of the politicians. It was not government, but the people themselves, who began the civil rights movement, and the drive for women's rights. It was not the government, but the people themselves, who discovered poverty and hunger in America. It was not government, but the people themselves, who first sensed our failure in Vietnam, and who know today that the war's continuation is nothing but a waste.

Time and again, it is the people who have shown the greatest wisdom and judgment. All they ask is a leader to inspire their efforts and coordinate their actions.

It is now more than ten years since John Kennedy told us to ask not what our country could do for us, but what we could do for our country. That was a phrase and a feeling that fired the imagination of an entire generation of Americans, and of people all around the world. To all our citizens—rich and poor, North and South, business and labor—it brought a new awareness of the purpose of America. It brought new respect for our basic civil liberties. It brought new compassion to the strong. It brought new hope to all the weak—to the poor and the black, the Indian and the Chicano, the small farmer in our rural counties.

I believe that government can still inspire the people. That is what we need once more. Let us enlist again the energies and talents of our citizens, especially our young, in the great public enterprises of the American nation. The idealism we had before may be just a spark today, but it is still there, waiting for the call that can fan it back to life.

Perhaps, in closing, we can pull it all together and appreciate our need by considering the name Charles Thompson. Charles Thompson recently pleaded guilty in New York to manslaughter in the first degree. He shot a cab-driver he was trying to rob when the man put up an unexpected fight.

Before sentencing, the judge received a probation report. Charles Thompson, it seems, has only one leg. He lost the other at Khe Sanh. He also has a heroin addiction that he acquired at an army hospital in Japan. He returned to the United States, as have so many of our veterans, without adequate education or job training, crippled and addicted, without any prospect or hope of employment. His disability pay was inadequate to support his habit. So he did the only thing he was trained to do—he used a gun.

The judge was compassionate. He could not just release this dangerous man. He had to think of the next cabdriver. So he called agency after agency, state and federal and local and private, trying to find any place or person who would accept responsibility for treating Charles Thompson under appropriate safeguards. There was none. No one would take him in. And so, two days before Thanksgiving of 1971, Charles Thompson was sentenced to serve up to 25 years in Attica State Prison.

That story sums up something of what we have done to the bright promise of the American nation. It measures our misguided policies of the recent past, and their survival into the present. It measures the failures of our society, the imperfections of our justice, the extent of our insensitivity to the suffering of our fellow citizens. And most of all, it illuminates our helplessness, our seeming inability to do what we know is right, what we know we have the capacity to accomplish.

That is the flagging spirit we can and must revive, for ourselves and for the future of our children. For in the last analysis, to live peacefully and decently as a nation, we need a certain kind of moral order, a certain kind of social and political order, an order based on things like hope and work and faith and love, the age-old virtues that built America in the past. That is the challenge of leadership we face today, and that is what 1972 is all about.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1971".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has eight or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, or (B) eight or more thereafter,"

(5) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its religious activities."

SEC. 4. (a) Subsections (a) through (e) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e–5(a)–(e)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) and (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, except that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) If the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court, the Commission shall issue and cause to be served upon any respondent not a government, governmental agency, or political subdivision a complaint stating the facts upon which the allegation of the unlawful employment practice is based, together with a notice of hearing before the Commission, or a member or agent thereof, at a place therein fixed not less than five days after the serving of such complaint. In the case of a respondent which is a government, governmental agency, or political subdivision, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in such civil action. The provisions of section 706 (q) through (w), as applicable, shall govern civil actions brought hereunder. Related proceedings may be consolidated for hearing. Any officer or employee of the Commission who filed a charge in any case shall not participate in a hearing on any complaint arising out of such charge, except as a witness.

"(g) A respondent shall have the right to file an answer to the complaint against him and with the leave of the Commission, which shall be granted whenever it is reasonable and fair to do so, may amend his answer at any time. Respondents and the person or persons aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. The Commission may grant other persons a right to intervene or to file briefs or make oral arguments as amicus curiae or for other purposes, as it considers appropriate. All testimony shall be taken under oath and shall be reduced to writing. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure for the district courts of the United States.

"(h) If the Commission finds that the respondent has engaged in an unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful employment practice an order requiring the respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organizations, as the case may be, responsible for the unlawful employment practice), as will effectuate the policies of this title, except that (1) back pay liability shall not exceed that which has accrued more than two years prior to the filing of a charge with the Commission, and (2) interim earnings or amounts earnable with reasonable diligence by the aggrieved person or persons shall operate to reduce the back pay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which he has complied with the order. If the Commission finds that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

"(i) After a charge has been filed and until the record has been filed in court as hereinafter provided, the proceeding may at any time be ended by agreement between the Commission and the respondent for the elimination of the alleged unlawful employment practice and the Commission may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it. An agreement approved by the Commission shall be enforceable under subsections (l) through (n) and the provisions of those subsections shall be applicable to the extent appropriate to a proceeding to enforce an agreement.

"(j) Findings of fact and orders made or issued under subsections (h) or (i) of this section shall be determined on the record.

Sections 554, 555, 556, and 557 of title 5 of the United States Code shall apply to such proceedings.

"(k) Any party aggrieved by a final order of the Commission granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals for the circuit in which the unlawful employment practice in question is alleged to have occurred or in which such party resides or transacts business, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days after the service of such order, a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to any other party to the proceeding before the Commission, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant to the petitioner or any other party, including the Commission, such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its member, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(l) The Commission may petition any United States court of appeals for the circuit in which the unlawful employment practice in question occurred or in which the respondent resides or transacts business, for the enforcement of its order and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that its order be enforced and for appropriate temporary relief or restraining order. The Commission shall file in court with its petition the record in the proceeding as provided in section 2112 of title 28, United States Code. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the Commission. Upon the filing of such petition, the court shall have jurisdicition of the proceeding and of the question determined therein and shall have power to grant to the Commission, or any other party, such temporary relief, retraining order, or other order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. No objection that has not been urged before the Commission, its members, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its member, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(m) If no petition for review, as provided in subsection (k), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Commission under subsection (l) after the expiration of such sixty-day period. The clerk of the court of appeals in which such petition for enforcement is filed shall forthwith enter a decree enforcing the order of the Commission and shall transmit a copy of such decree to the Commission, the respondent named in the petition, and to any other parties to the proceeding before the Commission.

"(n) If within ninety days after service of the Commission's order, no petition for review has been filed as provided in subsection (k), and the Commission has not sought enforcement of its order as provided in subsection (l), any person entitled to relief under the Commission's order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the unlawful employment practice in question occurred, or in which a respondent named in the order resides or transacts business. The provisions of subsection (m) shall apply to such petitions for enforcement.

"(o) The Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by attorneys appointed by the Commission.

"(p) Whenever a charge is filed with the Commission pursuant to subsection (b) and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to preserve the power of the Commisison to grant effective relief in the proceeding, the Commission shall, after it issues a complaint, bring an action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsections (k), (l), (m), or (n) of this section, as the case may be, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned is alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such an action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a)(2) thereof, shall govern proceedings under this subsection.

"(q)(1) If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not issued a complaint under subsection (f), the Attorney General has not filed a civil action under subsection (f), or the Commission has not entered into an agreement under subsection (f) or (i) to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and within sixty days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon the commencement of such civil action, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall take no further action with respect thereto, except that, upon timely application, the court in its discretion may permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action if the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending termination of State or local proceedings described in subsection (c) or (d) or the efforts of the Commission to obtain voluntary compliance.

"(2) The right of an aggrieved person to bring a civil action under paragraph (1) of this subsection shall terminate once the Commission has issued a complaint under

subsection (f) or the Attorney General has filed a civil action under subsection (f), or the Commission has entered into an agreement under subsection (f) or (i) to which the person aggrieved is a party, except that (1) if after issuing a complaint the Commission enters into an agreement under subsection (i) without the agreement of the persons aggrieved, or has not issued an order under subsection (h) within a period of one hundred and eighty days of the issuance of the complaint, the Commission shall so notify the person aggrieved and a civil action may be brought against the respondent named in the charge at any time prior to the Commission's issuance of an order under subsection (h) or, in the case of an agreement under subsection (i) to which the person aggrieved is not a party, within sixty days after receiving notice thereof from the Commission, and (2) where there has been no agreement under subsection (i), if the person aggrieved files a civil action against the respondent during the period from one hundred and eighty days to one year after the issuance of the complaint such person shall notify the Commission of such action and the Commission may petition the court not to proceed with the suit. The court may dismiss or stay any such action upon a showing that the Commission has been acting with due diligence on the complaint, that the Commission anticipates the issuance of an order under subsection (h) within a reasonable period of time, that the case is exceptional, and that extension of the Commission's jurisdiction is warranted."

(b) Subsections (f) through (k) of section 706 of such Act and references thereto are redesignated as subsections (r) through (w), respectively.

(c) Section 706(r) of such Act, as redesignated by this section, is amended by adding at the end the following sentence: "Upon the bringing of any such action, the district court shall have jurisdiction to grant such temporary or preliminary relief as it deems just and proper."

(d) Subsections (u) and (v) of section 706 of such Act, as redesignated by this section, are amended (1) by striking out "(e)" and inserting in lieu thereof "(q)", and (2) by striking out "(i)" and inserting in lieu thereof "(u)".

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with the provisions of subsection (d) and (e) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by an officer or employee of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706, including the provisions for enforcement and appellate review contained in subsections (k), (l), (m), and (n) thereof."

SEC. 6. (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e–8(b)–(d) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 of the Civil Rights Act of 1964 is amended by: (1) redesignating subsection (e) or subsection (f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available for inspection, reproduction, and copying by the Commission or its representative, or by the Attorney General or his representative, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission or its representative nor the Attorney General or his representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel by appropriate process the production of such record or paper."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply. No subpoena shall be issued on the application of any party to proceedings before the Commission until after the Commission has issued and caused to be served upon the respondent a complaint and notice of hearing under subsection (f) of section 706."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma

and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (785 Stat. 258, 42 U.S.C. 2000e–4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, unless additional members are appointed as hereinafter provided in this subsection. Not more than the least number of members sufficient to constitute a majority of the members of the Commission shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such members of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided,* That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code. At any time after one year from the effective date of the Equal Employment Opportunities Enforcement Act of 1971, the Chairman of the Commission, if he determines that the appointment of additional members of the Commission would help to effectuate the purposes of this title, may request the President to appoint up to four additional members of the Commission. Upon receiving such a request, the President may appoint up to four additional members of the Commission by and with the advice and consent of the Senate. Such additional members shall be appointed for a term of five years. Upon the expiration of the term of appointment of any such additional member no further appointment to the same position shall be made, and the total number of members of the Commission shall be reduced accordingly unless the Chairman of the Commission determines that the appointment of one or more additional members of the Commission continues to be necessary to better effectuate the purposes of this title and so advises the President."

(e) Section 705(g)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, nowithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(f) Section 705(g)(6) of such Act is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(g) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the powers granted to the Commission under subsection (h) of section 706, the power to modify or set aside its findings, or make new findings, under subsections (1), (k), and (l) of section 706, the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter. Nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(h) Section 714 of such Act is amended by striking out "section 111" and inserting in lieu thereof "sections 111 and 1114".

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (8)."

(c) Clause (111) of section 5316 of such title is repealed.

SEC. 10. Section 715 of the Civil Rights Act of 1964 (78 Stat. 265; 42 U.S.C. 2000e–14) is amended to read as follows:

"SEC. 715. All authority, functions, and responsibilities vested in the Secretary of Labor pursuant to Executive Order 11246, as amended, relating to nondiscrimination in employment by Government contractors and subcontractors and nondiscrimination in federally assisted construction contracts are transferred to the Equal Employment Opportunity Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Commission hereby as may be necessary to enable the Commission to carry out its functions pursuant to this section, and the Commission shall hereafter carry out all such authority, functions, and responsibilities pursuant to such order."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in the legislative and judicial branches of the Federal Government having positions in the competitive service, shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) The Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706(q), in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706(q) through (w), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required

by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)-15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall not be applicable to charges filed with the Commission prior to the enactment of this Act.

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

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

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

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

PRIVILEGE OF THE FLOOR

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during debate on S. 2515, Gerald Feder, Donald Elisburg, Robert Nagle, and Eugene Mittelman, members of the staff of the Committee on Labor and Public Welfare, be permitted the privilege of the floor.

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

Mr. WILLIAMS. Mr. President, for more than a century now, the Constitution of the United States has guaranteed the equal protection of the laws to all Americans. Congress has, in bits and pieces, over several generations, enacted legislation to fulfill these rights for all Americans.

We have had the rights of minorities before the public in the area of voting rights, schools, and public accommodations. In equal employment, we took a major step forward in 1964, more than 7 years ago, by enacting title VII of the Civil Rights Act.

Sixteen months ago, this body debated and passed S. 2453, the Equal Employment Opportunities Enforcement Act of 1970.

Unfortunately, the House did not act before the 91st Congress adjourned. This past year the House has passed such a bill and the duty is clearly on us to act now and once again.

We are considering this bill again because we have not achieved the respect and obedience to the congressional mandate of 1964 that Members of Congress of that year expected. Parenthetically, it can be recalled that today there are 63 Members of this body now serving who were Members of Congress in 1964 when the Civil Rights Act of that year was enacted. The concept of equal employment opportunity is generally couched in not unpleasant terms such as the desirability of insuring fairness in employment, the right to have a decent job, and the obligation of all citizens to help our disadvantaged Americans. These discussions, however, fail to perceive that those institutions and individuals in our society responsible for providing equal employment opportunity are deliberately disregarding their obligation to contribute to law and order in society when they violate the Civil Rights Act of 1964 by denying jobs to minorities and denying jobs and equality to women.

As we all know, that act declares that it is an unlawful employment practice to fail or refuse to hire or promote, or to otherwise discriminate against a person with respect to his employment because of race, color, religion, sex, or national origin. When these violations take place, they cause the loss of economic security and the inability to maintain a decent household just as surely as the burglar in the night when he steals money, savings, and possessions.

Title VII of the Civil Rights Act established the Equal Employment Opportunities Commission as an independent bipartisan agency charged with the administration of the act's substantive provisions.

The act contemplated informal methods of conciliation and persuasion as the primary mechanism for obtaining compliance with its provisions. Only when a pattern or practice of resistance to the statute was indicated did it make provision for enforcement by the Government and then only by the Attorney General. Individuals who failed to receive relief through the Commission were left to private lawsuits, an expensive procedure not readily available to most complainants.

Title VII, quite frankly, has not been a notable success. In 1964, employment discrimination tended to be viewed as a series of isolated and distinguishable events, for the most part due to ill will on the part of some identifiable individual or organization. It was thought that a scheme that stressed conciliation rather than compulsory processes would be most appropriate for the resolution of this essentially human problem, and that litigation would be necessary only on an occasional basis in the event of determined recalcitrace. Unfortunately, this view has not been borne out by the experience of the last 7 years. Not enough is being done to obey the act and improve the situation. In its first 6 years of experience, the Equal Employment Opportunity Commission has received over 81,000 actionable charges of which approximately 50 percent complained of discrimination because of race; 30 percent were concerned with sex discrimination, with the remainder of the charges involving discrimination on a basis of national origin or religion.

Furthermore, during each year of the Commission's existence, the number of charges filed per year has increased. In fiscal year 1970 alone, the Commission received 14,129 new charges; in fiscal year 1971, this number increased to 22,920; and the indications for the current year are that more than 32,000 charges will be filed with the Commission.

Compliance reviews and employment surveys continually reflect the same traditional situation. Minority workers—black, Spanish-surnamed, Oriental or Indian—are relegated to the lowest paying, least desirable jobs—if, indeed, they get hired at all. Often, seniority systems further perpetuate the problem by locking the minority worker into a line of progression that tops out at an hourly income far below the highest positions in an all-white line of progression.

I think it is useful in illustrating the results of this continued and flagrant disregard of the law to examine this unlawful conduct as it affects the ability of so many members of minority groups in this country to participate in the economic life of our society.

The statistics are vivid, and I would like to recite just a few of the more significant results.

In a special report released this year by the Bureau of the Census, entitled "The Social and Economic Status of Negroes in the United States," the evidence is clear that while some progress has been made toward bettering the economic position of the Nation's black population, the avowed goal of social and economic equality is not yet anywhere near a reality. For example, the report shows that the median family income for Negroes in 1970 was $6,279, while the median income for whites during the same period was $10,236. This earnings gap shows that Negroes are still far from reaching their rightful place in our society.

Support for the above statement is provided by statistics in the Census Bureau report which show that Negroes are concentrated in the lower paying, less prestigious positions in industry and are largely precluded from advancement to the higher paid, more prestigious positions. For example, while Negroes constitute about 10 percent of the labor force, they account for only 3 percent of all jobs in the high-paying professional, technical, and managerial positions. In the nine industries with the highest earning capabilities—printing and publishing, chemicals, primary metals, fabricated metals, nonelectrical machinery, transportation equipment, air transportation, and instruments manufacture—Negroes hold only 1 percent of professional and managerial positions. On the other hand, in the lowest paying laborer and service worker categories, Negroes account for 24 percent of all jobs.

This economic disparity is further reinforced by statistics which show that the unemployment rate for Negroes is considerably higher than that for whites. Figures available for 1970 show that while 4 percent of white males were unemployed, and the unemployment rate for all whites was 5.4 percent, 9.3 percent of all Negroes were unemployed. Even in the managerial and professional positions, the area with the lowest unemployment rate, Negro unemployment was 2.1 percent while white unemployment was 1.7 percent.

While statistics on Spanish-speaking Americans are not nearly as current or as complete, available data indicates that this, the second-largest ethnic minority group in the Nation, with approximately 7.5 million members, is in a similar situation. In 1969, the median family income for Spanish-speaking American families was $5,641. About 17 percent of these families had incomes of less than $3,000. Both male and female Spanish-speaking American workers, as has already been shown to be the case with Negroes, are also concentrated in the lower paying occupations. Only 25 percent of employed Spanish-speaking males are in white-

collar jobs, compared to 41 percent of all men. On the other hand, 58.8 percent of Spanish-speaking males are concentrated in blue-collar occupations. The statistics for Spanish-speaking women workers indicates a similar disparate distribution. Also, as with Negroes, Spanish-speaking workers suffer a higher unemployment rate when compared to the white population. In 1969, 6 percent of Spanish-speaking Americans were unemployed, compared to 3.5 percent for the rest of the Nation.

Mr. President, if I stated that too rapidly, that goes back to 1969. Six percent of Spanish-speaking Americans were unemployed. The figure for the rest of the Nation was 3.5 percent.

The unemployment figures are far worse today and with the best estimates we have of unemployment today of 6 percent, this is one of the tragedies of our land at this time. The unemployment of Spanish-speaking Americans has increased in degree and is greater by far than the tragically high general unemployment of 6 percent.

The burden of unfair employment practices does not just fall on our minority citizens. The right of female workers to equal employment opportunity is all too frequently ignored by employers.

There are approximately 30 million employed women in the Nation, constituting about 38 percent of the total work force. The number of working women has also increased very rapidly during the last two decades—between 1947 and 1968 the number of women in the civilian labor force increased by 75 percent while the number of men during the same period increased only 16 percent. Despite this large increase in the numbers of women in the work force, women continue to be relegated to low-paying positions and are precluded from high-paying executive positions. Similarly, the rate of advancement for women is slower than for men in similar positions.

About 70 percent of all employed women work in order to provide primary support for themselves or to provide a supplement to the incomes of their husbands which may be needed to meet household expenses. However, within established occupational categories, women are paid less for doing the same jobs as are done by men. For example, in 1968, the latest year for which extensive data is presently available, the median salary for all scientists was $13,200; for women scientists the median salary was $10,000. Similarly, the median salary for a full-time male factory worker was $6,738 while his female counterpart could only expect to earn $3,991. This economic disparity is further emphasized by figures which show that 60 percent of women but only 20 percent of men earned less than $5,000 per year, while only 3 percent of women but 28 percent of men earned $10,000 per year or more.

While some have looked at the entire issue of women's rights as a frivolous divertissement, I believe that discrimination against women is no less serious than other prohibited forms of discrimination, and that it must be accorded the same degree of concern given to any type of similarly unlawful conduct. Remember, we are often talking not just about a woman's right to use her resources for self-fulfillment, we are also talking about a woman's right to be able to provide for her children. Without a doubt the problem of female underemployment presents deep sociological ramifications, and empolyers, employment agencies, and labor unions cannot deny the responsibility they have to abide by the law and to treat women on an equal basis with men.

All of this statistical data and recitation of the sad history of compliance with this act has very real significance to our efforts in trying to make the world in which we live a better place. For unless we are able to bring some measure of hope for progress in our society to the sons and daughters of our citizens and make absolutely clear that they have a stake in the future of the system, we are all going to suffer with their disillusionment.

I realize that enactment of this bill will not automatically and overnight end employment discrimination in this country. But this bill will take us forward. The time has come to bring an end to job discrimination once and for all and to insure to every American the opportunity for the decent self-respect that goes with a job. The promises of equal job opportunity made in 1964 must be made realities in 1972.

The bill, as reported by the committee, provides for significant revisions in the primary enforcement mechanisms of title VII. The Commission would continue to seek voluntary resolution of disputes, but if conciliation efforts were unsuccessful, the Commission would be authorized to issue complaints, hold hearings, and where unlawful employment practices are found, issue appropriate orders subject to review by the courts of appeal. Upon petition by either the Commission, the respondent, or the person alleged to be aggrieved, a court of appeals may enter an order enforcing, modifying, or setting aside the order of the Commission. The committee bill requires that petitions for review must be filed within 60 days of the Commission's order. This avoids the burdensome experience encountered by the NLRB, which alone among all regulatory agencies, does not possess authority to issue orders that are in some measure self-enforcing. I might note that the procedure in this bill is similar to that contained in the Occupational Health and Safety Act and last year's equal employment opportunity bill, S. 2453.

The committee has taken pains to see that the rights of all parties to EEOC proceedings are protected. The Commission has to give respondents notice of the charges within 10 days. The right to a hearing on the record before a disinterested trial examiner is specifically provided for, and all proceedings must be conducted in accordance with the Administrative Procedure Act. Interested persons may intervene or appear as amicus curiae, and all parties to proceedings before the Commission may take part in any review in the court of appeals. Finally, provision is made for review by the U.S. Supreme Court as provided in 28 U.S.C. 1254.

During the committee deliberations, the Senator from Ohio (Mr. TAFT) suggested that the administrative procedures adopted in this bill would be strengthened by the addition of a statutory general counsel to insure the maximum in independence and separation of functions.

Last year when this bill was before us in the Senate, a separation proposal was offered as an amendment. As manager of the bill, I accepted the proposal during the floor debate. When the suggestion was made by the Senator from Ohio in committee I indicated that I would be amenable to such an amendment.

It is my understanding that the amendment will be offered, and again that will be the position of the manager of the bill when it is offered. An exchange of correspondence between the Senator from Ohio and me will be included as a part of the RECORD today. I believe that request already has been made.

The bill also contains provision for individual recourse to the Federal district courts if the Commission dismisses a charge, or if it has not issued a complaint or entered into a conciliation agreement agreeable to the parties within 60 days after filing of a charge. Under certain circumstances, the private right of action would also obtain if the Commission has issued a complaint but taken no action on it for 6 months. In any event, duplication of proceedings is avoided by termination of one at the commencement of the other. For example, if an individual should perfect and exercise his title VII right of court action, the Commission would thenceforth be divested of jurisdiction over the matter. Likewise, if the Commission issued a complaint and proceeded with reasonable speed, its jurisdiction would remain exclusive prior to the institution of enforcement or review proceedings in the court of appeals. The committee concluded that this scheme would protect aggrieved persons from undue delay as well as prevent respondents from being subject to dual proceedings.

Several other significant changes were made in the statute's enforcement provisions. First, the authority of the Attorney General to institute court actions directed at "patterns or practices" of resistance to the act would be transferred to the Commission after 2 years, with the Commission having concurrent jurisdiction to issue such complaints during the 2-year period. The broad scale actions against any "pattern or practice" of discrimination that have been brought by the Justice Department under section 707 of the act have been an integral and important part of the overall Federal effort to combat discrimination. It is the committee's view that with the enactment of legislation providing the Commission with effective power to enforce title VII, the further retention of section 707 power in the Department of Justice is not necessary.

Moreover, employees would benefit by having to look to only one agency to obtain relief; employers similarly would be free from the burden of multiple investigations, examining their employment policies and personnel records in response to similar or identical complaints filed

with different agencies. Second, the Secretary of Labor's responsibilities for Federal contract compliance under Executive Order 11246, as amended, are transferred to the Commission. As I have stated in connection with the pattern and practice transfer, the basic purpose of this consolidation is to enable the Federal Government, through the procedures of the Commission, to pursue a unified program of attack upon all elements of employment discrimination.

Unlike the Department of Justice program, however, the contract compliance effort has not been a notable success. It should be an important and viable tool in the Government's efforts to achieve equal employment opportunity. The transfer to the Commission will enable it to operate in a fresh atmosphere within an agency that has equal employment opportunity as its sole priority.

The bill also makes a number of changes in the coverage of the act. Title VII's jurisdiction is expanded after 1 year from enactment to reach employers and unions with eight or more employees and members; it is also extended to State and local governments, and educational institutions. The extension of coverage to employees of State and local governments was accompanied by a special enforcement procedure which provides that the Commission refer the case to the Attorney General for filing of a civil action against the respondent in the appropriate U.S. district court. During discussion in the committee, several members expressed concern that States and political subdivisions would be subjected to administrative hearings and orders of EEOC. This enforcement scheme was devised to provide the necessary power to achieve results without the needless friction that might be created by a Federal executive agency issuing orders to sovereign States and their localities.

The Civil Service Commission is given added responsibilities for insuring equal employment opportunities for Federal employees. These employees are also given a right to bring actions in the Federal courts if they are not satisfied with the Civil Service Commission's actions. All of these changes are intended to provide a more universal and effective application of the national policy against job discrimination.

The bill would make a number of other changes in title VII involving filing requirements for charges, Commission organization, terms and compensation of members, and revision of the recordkeeping requirements of section 709(d) to lessen the duplicatory effect of overlapping Federal and State regulations. The investigations language of section 11 of the National Labor Relations Act has also been incorporated to complement the new enforcement authority bestowed on the Commission.

The entire committee worked hard at reporting a comprehensive bill. Throughout consideration of this legislation, there was a unanimity of views that enforcement powers were needed for the Commission.

The only significant area of disagreement was whether this enforcement power should be through a Commission lawsuit in a U.S. district court, or by an administrative proceeding followed by a cease-and-desist order, with a review in the appropriate U.S. court of appeals. The committee carefully considered both of these approaches, both of these possibilities, but decided to adopt the cease-and-desist approach.

Several other constructive changes were made in the bill during committee deliberations. For example, the provisions strengthening the equal employment program for Federal Government employees represents an approach developed by the Senator from Colorado (Mr. DOMINICK), with the cooperation of the Civil Service Commission, and the special enforcement provision for State and local governments was very carefully worked out by the Senator from Missouri (Mr. EAGLETON), and, here again, the Senator from Ohio (Mr. TAFT).

Mr. President, in the interest of time. I leave further explanation of the bill's provisions to the debate which will follow. I would urge the Senate to proceed with a sense of urgency and recommend the bill's prompt passage.

This legislation is long overdue, and can wait no longer. We are on the eve of the celebration of 200 years of promise in this country that there is to be equality for all people, and under this bill, the full effect would be reacted just beyond that 200th anniversary date, with its delays of the full transfer.

The equality and the promise of this land in the basic business of living—a job—is long overdue. Wherever you move, you see the tragic ramifications of the absence of full equality of opportunity in getting a job, in holding a job, and in being promoted in a job. This land of opportunity, in this Senator's judgment, needs this legislation, which extends the force of law to the provisions of our Declaration of Independence, and to the provisions of the Constitution of our great land.

Mr. President, there will be debate. There will be amendments. I believe that this debate and discussion of amendments need not take, in relative terms, forever, that we can get to the heart of our disagreement in discussion, have our votes, and see the measure as fashioned by this body ready for conference with the House of Representatives, which has already, of course, passed a measure in this area.

I ask unanimous consent that a comparison of title VII as it presently exists, and changes proposed in the Senate and the House bills be printed in the RECORD at this point.

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

COMPARISON OF TITLE VII, CIVIL RIGHTS ACT OF 1964, PUBLIC LAW 88-352, 78 STAT. 241, 253; 42 U.S.C. 2000E ET SEQ., AS PROPOSED TO BE AMENDED BY S. 2515 (WILLIAMS, ET AL), AS REPORTED TO SENATE (S. REPT. NO. 92-415), AND H.R. 1746 (ERLENBORN) 92D CONG., 1ST SESS., PASSED BY THE HOUSE OF REPRESENTATIVES, SEPT. 16, 1971

PRESENT LAW, TITLE VII	S. 2551 WILLIAMS ET AL., AS REPORTED TO SENATE (S. REPT. NO. 92-415)	H.R. 1746 (ERLENBORN)
Who is covered: 1. Employer. A covered "employer" is a "person" engaged in an industry affecting commerce who has 25 or more employees. "Persons," in turn, is defined to include not only one or more natural persons, but also "partnerships, associations, corporations, mutual companies, joint-stock companies, trusts, and unincorporated organizations." Legal representatives, trustees, trustees in bankruptcy and receivers also are "persons." "Commerce" is defined as "trade, traffic, commerce, transportation, transmission or communication" among or between the several States or between points in the same State if the terminus is reached through a point outside such State. The term also includes "commerce" within the District of Columbia and possessions. The term "industry affecting commerce" is patterned after and incorporates the definition of "affecting commerce" in the Labor Management Reporting and Disclosure Act of 1959, which in turn, incorporates the definition of "affecting commerce" of the Labor Management Relations Act of 1947. (By this technique, Congress in-	This bill would bring States and political subdivisions of States within the definition of covered employers. First, it would redefine "person" to include "governments, governmental agencies, and political subdivisions." Second, it would eliminate the exemption of "State or political subdivision thereof" allowed by the existing law. Third, it would include "any governmental industry, business, or activity" within the term "industry affecting commerce." (Sec. 2 (1), (2), (5).) The bill would also define the term "employer" to mean individuals and organizations engaged in an industry affecting commerce if they have eight or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. According to the terms of the bill, this change affecting the numerical standard which brings employees within its requirements would become effective 1 year after enactment. (Sec. 2(2).)	Retains provisions of existing law.

PRESENT LAW, TITLE VII	S. 2515 (WILLIAMS, ET AL) AS REPORTED TO SENATE (S. REPT. NO. 92-415)	H.R. 1746 (ERLENBORN)
voked "the fullest *jurisdictional* breadth constitutionally permissible under the Commerce Clause.") (Sec. 701 (a), (g), (h).)		
All these individuals and organizations are deemed to be covered employers if they are engaged in an industry affecting commerce and if they have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. (Sec. 701(b).)		
2. Employment agency. A covered "employment agency" is one which "regularly" procures employees for a covered employer or which "regularly" procures for employees opportunities to work for covered employers. The term also includes the United States Employment Service and the system of State and local employment services receiving Federal assistance. (Sec. 701(c).)	The bill would eliminate the existing law's exemption of all levels of government from the definition of "employment agency". Consequently, to the extent that "an agency of the United States, or an agency of a State or political subdivision of a State" (in addition to "the United States Employment Service and the System of State and local employment services receiving Federal assistance" presently covered by the law) "regularly" procures employees for a covered employer or which "regularly" procures for employees opportunities to work for covered employers, they would be covered. (See 2(3).)	
3. Labor organization. The definition of labor organization is substantially the same as the definition in the Labor Management Reporting and Disclosure Act of 1959, except that State and local central bodies are treated as are other labor organizations. It includes "any organization of any kind . . . in which employees participate and which exists for the purpose . . . of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. . . ." National and international unions and their subordinate units—conferences, general committees, joint or system boards, or joint councils—are included in the definition as well as local unions. (Sec. 701(d).)		
Labor organizations are covered only if they are engaged in an "industry affecting commerce" within the meaning of the Act. Labor organizations so engaged include: First, a labor organization that maintains or operates a hiring hall or office to provide employees for a covered employer or to procure for employees opportunities to work for a covered employer. Labor organizations operating hiring halls are covered without regard to their numerical strength. Second, a labor organization which has an aggregate number of 25 or more employees. If it meets the numercial standard, a labor organization is covered if it (1) is certified as the bargaining representative under the National Labor Relations Act or Railway Labor Act, or (2) is recognized as the bargaining representative by a covered employer, or (3) has some formal relationship with a covered labor organization whether through a charter or as a joint interest organization. (See 701(e).)	The bill would redefine covered labor organizations by reducing the numerical standard from twenty-five to eight employees. As in the case of the similar change with respect to covered employers, this amendment would not go into effect until 1 year after passage of the act. (Sec. 2(4).)	
Who is not covered:		
1. Employer. The Federal Government and corporations wholly owned by it are excluded from the definition of employer. Also excluded are States and their political subdivisions, Indian tribes, and private membership clubs. (Sec. 701(b).)	As noted above, the provision exempting States and their political subdivisions is eliminated and, instead, departments and agencies of the District of Columbia subject to procedures of the competitive service (see Sec. 11) are excluded from the definition of the term "employer". (Sec. 2(2).)	Retains provisions of existing law.
Employers are exempted *with respect to aliens they employ abroad* and educational institutions *with respect to educational personnel.* Religious organizations also have a partial exemption. They are exempt with respect to the "employment of individuals of a particular religion to perform work connected with the carrying on" of its religious activities. (Sec. 702.).	Repeals the exemption for employment of individuals engaged in educational activities of nonreligious educational institutions. (Sec. 3.)	
2. Employment agency. Although the term includes the United States Employment Service and the system of State and local employment services receiving Federal assistance, it does not take in any other Federal, State, or local agencies. (Sec. 701(c).)		

COMPARISON OF TITLE VII, CIVIL RIGHTS ACT OF 1964, PUBLIC LAW 88-352, 78 STAT. 241, 253; 42 U.S.C. 2000E ET SEQ., AS PROPOSED TO BE AMENDED BY S. 2515 (WILLIAMS, ET AL), AS REPORTED TO SENATE (S. REPT. NO. 92-415), AND H.R. 1746 (ERLENBORN) 92D CONG., 1ST SESS., PASSED BY THE HOUSE OF REPRESENTATIVES, SEPT. 16, 1971—Continued

PRESENT LAW, TITLE VII	S. 2515 (WILLIAMS, ET AL) AS REPORTED TO SENATE (S. REPT. NO. 92-415)	H.R. 1746 (ERLENBORN)
Prohibited practices: Section 703 of the existing law consist of ten subsections; four of these describe a number of activities which if engaged in by covered persons constitute unlawful employment practices. The balance of the section sets out various limiting qualifications. 1. Employer. Discrimination by employers falls into four general areas: (1) hiring and firing, (2) employment conditions, (3) segregation and classification, and (4) training programs. Thus, it is an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual because of his race, color, religion, sex, or national origin. It is also an unlawful employment practice for an employer to discriminate against an individual because of his race, color, religion, sex, or national origin with respect to compensation, terms, conditions, or privileges of employment. Further, an employer is forbidden to limit, segregate, or classify employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of his race, color, religion, sex, or national origin. (Sec. 703(a).) Together with labor organizations and joint labor-management committees, employers are prohibited from discriminating on the basis of race, color, religion, sex, or national origin in admission to or employment in any apprenticeship training or retraining programs. This includes on-the-job training programs. (Sec. 703(d).) 2. Employment agency. It is an unlawful employment practice for an employment agency to (1) fail or refuse to refer for employment, or otherwise discriminate against any individual because of his race, color, religion, sex or national origin, or (2) classify or refer any individual for employment on the basis of his race, color, religion, sex or national origin. (Sec. 703(b).) 3. Labor organization. Labor organizations are affected by the current law both in their capacity as employers and as organizations representing employees. With respect to the former, they are subject to the prohibitions applicable to employers generally, as noted above. In their capacity as labor organizations, unions are affected in three general areas. First, they may not exclude or expel from membership or otherwise discriminate against any individual because of his race, color, religion, sex, or national origin. Second, they are forbidden to limit, segregate, or classify membership, or classify or fail or refuse to refer for employment any individual in any way that would deprive him of employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment because of his race, color, religion, sex, or national origin. Third, labor organizations are prohibited from attempting to cause employers to discriminate. (Sec. 703(c).) As is true of employers, labor organizations and joint labor-management committees are prohibited from discriminating with respect to apprenticeship and other training programs. (Sec. 703(d).)	Retains provisions of existing law with the following changes: The bill would amend this portion of the Act to make it clear that discrimination against applicants for employment is an unlawful employment practice. (Sec. 8(a).) The bill would amend this portion of the Act to make it clear that discrimination against applicants for union membership is an unlawful employment practice. (Sec. 8(b).)	Retains provisions of existing law.
Other prohibited practices: Section 704 of the law contains a pair of ancillary prohibitions applicable to employers, employment agencies, and labor organizations. First, it is an unlawful employment practice to discriminate against any person for opposing discriminatory practices, and for bringing charges before the Commission or otherwise participating in proceedings under the Act. Discriminatory advertising is prohibited unless the discrimination is based	The bill would amend this portion of the Act to make it clear that joint labor-management apprenticeship-committees are subject to provisions making it an unlawful employment practice to retaliate against persons for bringing charges before the EEOC or otherwise participating in proceedings under the Act. (Sec. 8(c)(1).) The bill would amend this portion of the Act to make it clear that joint labor-manage-	Retains provisions of existing law.

PRESENT LAW, TITLE VII	S. 2515 (WILLIAMS, ET AL) AS REPORTED TO SENATE (S. REPT. NO. 92-415)	H.R. 1746 (ERLENBORN)
on a *bona fide* occupational qualification. (Sec. 704.)	ment apprenticeship-committees are subject to provisions making it an unlawful employment practice to engage in discriminatory advertising. (Sec. 8(c)(2).)	
Practices not prohibited by the Act:		
There are a number of exceptions to the general prohibition against employment discrimination on account of race, color, religion, sex, or national origin. One of the broadest of these permits employers, employment agencies, and labor organizations to discriminate on the basis of religion, sex, or national origin "in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise." This exception applies to hiring by employers, classification and referral by employment agencies, classification or referral by labor organizations, and admission to or employment in an apprenticeship or other training program. This exception also applies to the ban against discriminatory job notices or advertising noted above. (Sec. 703(e).)	Retains provision of existing law.	Retains provisions of existing law.
Another exception allows religiously affiliated educational institutions to hire employees along religious lines. Unlike the exception noted above, this one is not limited to educational employees but extends to the institution's entire work force. (Sec. 703(e).)		
The Act also provides that the term "unlawful practice" shall not include any action taken against any individual "who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950." (Sec. 703(f).)		
Likewise, it is not an unlawful employment practice to deny any person a job if he cannot obtain the requisite security clearance. (Sec. 703(g).)		
It is not an unlawful employment practice "for an employer to apply different standards of compensation, or different terms of employment pursuant to a *bona fide* seniority or merit system which measures earning by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin. In brief, differences in treatment in certain factors will be permitted where they are not intentionally employed to accomplish discrimination by indirection. (Sec. 703(h).)		
Also, it is not an unlawful employment practice for an employer to give and to act upon the result of a professionally developed ability test provided they are not "designed, intended, or used to discriminate because of race, color, religion, sex, or national origin." (Sec. 703(h).)		
Also, it is not an unlawful employment practice for businesses operating on or near an Indian reservation to accord preferential treatment to Indians. (Sec. 703(i).)		
Administration:		
The principal enforcement organ under title VII is the Equal Employment Opportunity Commission (EEOC). The Commission is composed of five members, not more than three of whom may be members of the same political party. EEOC members are appointed by the President by and with the advice and consent of the Senate. Although initial appointments were made for one, two, three, four, and five year terms, respectively, all appointments are now for a full five year term. The President designates both chairman and vice chairman. The chairman is responsible for the administrative operations of the Commission and staffing the agency in accordance with civil service laws.	The bill would amend provisions of the law relating to the establishment of a 5-man EEOC in several particulars. First, it would provide that all EEOC members "shall continue to serve until their successors are appointed and qualified." However, no person is to serve for more than 60 days when Congress is in session unless his nomination has been submitted for Senate confirmation or after *sine die* adjournment by the Senate without acting on the nomination. Second, "hearing examiners" are added to the list of positions which may be filled by the EEOC Chairman. Appointments to position of hearing officer are to be made in accord with 5 U.S.C. and assignment, removal and compensation are subject to sections 3105, 3344, 5362, and 7521 of that title. Finally, the bill	

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	would allow the Chairman to ask the President to appoint from one to four new members. Any appointments made by the President pursuant to this request would require the advice and consent of the Senate. "Not more than the least number of members sufficient to constitute a majority of the members of the Commission shall be members of the same political party." Generally, the authority to appoint additional EEOC members would be used only once except that such posts may be filled again if the Chairman believes that extra members are necessary to "better effectuate" the purposes of Title VII. (Sec. 7(d).)	
Three members comprise a quorum for purposes of conducting Commission business. The EEOC is authorized a seal which is to be judicially noticed.	The bill also would amend the Act to permit the EEOC to accept voluntary and uncompensated services notwithstanding contrary and inconsistent legal requirements. (See 8(e).)	
The EEOC is required to make an annual report of its activities and other specified matters to the Congress and to the President. The principal office of the EEOC is to be in or near the District of Columbia, but it is authorized to meet or exercise its powers at any other place. Regional or State offices may be established as the EEOC deems necessary. The EEOC's chief responsibilities include the investigation and conciliation of complaints, promulgation of recordkeeping requirements, and participation in a variety of cooperative efforts to further *voluntary* compliance with the title. (Sec. 705.)	The bill would eliminate provisions of existing law authorizing the EEOC to request the Attorney General to intervene in private suits and substitutes the EEOC instead in conformity with new provisions added by other parts of this bill. (Sec. 8(f).)	The bill would amend the existing law in two ways. First, it would amend portions of the law enumerating the EEOC's powers to permit the Commission to recommend to the Attorney General that the Justice Department intervene in court actions brought by private persons, institute "pattern or practice" suits, and process any appeals on its behalf in the courts of appeals or in the Supreme Court as the case may be. Second it would amend the provision which permits the EEOC to appoint attorneys to represent it to authorize the Commission to appoint attorneys to handle its litigation in all cases except appeals in the courts of appeals and in the Supreme Court which appeals "shall" be conducted by the Attorney General. (Sec. 2.)
Enforcement: EEOC procedures are initiated by filing a charge of unlawful discrimination. The charge must be filed within 90 days after the occurrence of the alleged unlawful employment practice. It must be in writing and under oath and may be filed by either the person claiming to be aggrieved or by a member of the Commission who has reasonable cause to believe that a violation of Title VII has occurred. (Sec. 706(a).) Upon receipt of the charge the EEOC is to furnish the accused employer, employment agency or labor organization, as the case may be, with a copy of the complaint and to make an investigation. Charges are required to be kept confidential. (Sec. 706(a).) If, after investigation, the EEOC determines that there is reasonable cause to believe that the charge is true, it "shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation and persuasion." Other provisions of the Act prohibit the EEOC and its employees from making public, information obtained by compulsory process in the course of its investigation except in the course of litigation arising under the title. Sec. 706(a).)	The bill would rewrite substantial portions of this part of the law in conformity with the fundamental change from an EEOC authorized to effect voluntary compliance to an EEOC empowered to compel compliance with its orders. Thus, the Commission is empowered to prevent persons from engaging in unlawful employment practices as defined above. (Sec. 4(a) "(a)".)	The bill retains the major portion of the administration and enforcement provisions of existing law with a few changes to various subsections which are intended to authorize the EEOC to *bring court suits* to eliminate unlawful employment discrimination. (Sec. 3.)
	An unlawful employment practice charge may be filed "by or on behalf of a person claiming to be aggrieved" or by an officer or employee of the EEOC. Oath requirement of the Act is not retained. The EEOC must serve the charge upon employers, employment agency, labor organization, or joint labor-management committee (termed respondent) as the case may be. The requirement of existing law that charges filed by a member of the EEOC must be based upon reasonable cause to believe that a violation has occurred is not retained. The charges must be in writing and contain information specified by the EEOC. The EEOC is not to disclose the contents of the charges. The EEOC is required to serve the respondent employer, employment agency, or union, as the case may be, with "notice" that a charge against him has been filed. The notice must specify the date, place, and circumstances of the alleged unlawful employment practice within ten days after the filing of the charge. If after investigating, the EEOC determines that there is no reasonable cause to believe that the charge is true, it must dismiss the charge promptly, notifying the parties of its action. Conversely, if the EEOC determines that there is reasonable cause, it is required to correct the unlawful practice by informal methods. The EEOC must make its finding as to reasonable cause as promptly as possible, and, "as far as practicable," within 120 days from the filing of the charge or from the date it can begin to take action as described shortly hereafter	The bill proposes two amendments to the provision dealing with the filing of charges with the EEOC. First, to the present law's requirement that charges set out the facts upon which they are based, the bill would require that the "person or persons aggrieved" be identified. Second, the bill would require that the Commission serve the respondent with a copy of the complaint within 5 days of its receipt by the EOCC. (Sec. 3(a).)

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In States and localities which have FEP laws applicable to the incident complained of, and that law establishes or authorizes "a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto", no charge may be filed with the EEOC until the State or local agency has had 60 days to deal with the case. During the first year following the effective date of the State or local law, the time allowed local agencies to effect a resolution is 120 days. In order to insure against the adoption of onerous requirements by State and local agencies as a means of forestalling Federal proceedings, the Act deems it to be sufficient compliance with the requirement of deference to local authority if the person aggrieved submits a written statement of the facts to such agency by registered mail. If the charge is filed by an EEOC Commissioner, the Commission "before taking any action," must notify the appropriate State or local agency and "upon request," allow it 60 days (120 days in the case of a new agency) to deal with the complaint. However, once the 60 days have passed, the complainant may take his case to the EEOC, regardless of the statue of the case or its outcome at that time. (Sec. 706 (b), (c).)

As previously noted, the charge must be filed within 90 days of the alleged discriminatory practice. If the complainant has pursued the State or local remedy, he may file his charge with the commission within 210 days after the occurrence of the activity complained of, or 30 days after receipt of notice of termination of the State or local proceedings, whichever is earlier. (Sec. 706(d)).

If attempts at voluntary compliance fail, the EEOC is to notify the complainant. Within 30 days of receipt of such notice, a civil action may be brought by the person claiming to be aggrieved, or if such charge was filed by a Commissioner, by a person whom the charge alleges was aggrieved by the discriminatory practices. If the person aggrieved files suit on his own behalf, the court is authorized to appoint an attorney for him and to discharge him from liability for fees, costs, or security. (Sec. 706(e).)

If permitted by the court, the Attorney General may intervene in any action brought by an individual under the Act. However, before being permitted to intervene, the Attorey General is required to certify that the case is one of general public importance. (Sec. 706(e).)

The EEOC must in its determination of reasonable cause accord substantial weight to final findings and orders made by State or local authorities pursuant to their respective laws. Personnel of the EEOC are required to maintain information obtained during the preliminary phase in strict confidence and are prohibited from using it in any subsequent proceedng without the consent of the persons concerned. Breaches of confidentiality may be punished by maximum fine of $1,000 or imprisonment for one year or both. (Sec. 4(a) "(b)".)

Charges alleging commission of an unlawful employment practice in an area subject to State or local anti-discrimination law may be filed with the EEOC, but it must defer acting until passage of 60 days from commencement of proceeding under such State or local law unless the proceedings have been terminated earlier. In keeping with similar provisions in existing law, 120 days rather than 60 days are permitted during the first year of operation of a new State or local anti-discrimination law. However, if a State or local law requires something more than the filing of a written charge, proceedings thereunder shall be deemed to have commenced at the time a written statement of the facts is sent to the local agency by certified mail. (Sec. 4(a) "(c)".)

An alternate provision is set out to deal with the case of deferring to State and local agencies when the charge is filed by an officer or employee of the Commission. The time period is the same as that authorized when the charge is filed by a person aggrieved or someone in his behalf. The procedure also is the same except that the EEOC must notify its State or local counterpart. (Sec. 4(a) "(d)".)

An unlawful employment practice charge must be filed within 180 days after it has occurred. This contrasts with 90 days authorized under existing law. In cases where the EEOC defers to a State or local agency, the charge must be filed within 300 days (the law presently allows 210 in these circumstances) or within 30 days after the person aggrieved receives notice that the State or local agency has terminated proceedings, whichever is earlier. (Sec. 4(a)"(e)".)

If the EEOC determines that informal methods cannot produce an acceptable conciliation agreement, it can issue and serve respondent with a complaint stating the facts upon which the alleged unlawful employment practice is based together with notice of an impending hearing. The EEOC's determination in this regard is not subject to judicial review. The hearing may not be held less than 5 days after service of the complaint. An officer or employee of the Commission who files a charge in a case may not participate in the case except as a witness. An alternate procedure is provided where the respondent is a government, government agency, or political subdivision. In that case, if conciliation fails the EEOC would take no further action and would refer the matter to the Attorney General who would bring a civil action in the Federal district courts. The person or persons aggrieved may intervene in actions brought by the Attorney General. Civil proceedings brought by the Attorney General are subject to provisions of sections 706(q) through (w). (Sec. 4(a)"(f)".)

Respondent has the right to file an answer to the complaint and the EEOC shall whenever reasonable grant him leave to amend it. Respondent and person aggrieved are deemed to be parties and may appear at any stage of the proceedings with or without counsel. The EEOC has discretion to allow persons other than parties to intervene, file briefs, make *amicus* appearances, etc. All testimony is to be under oath and recorded in writing. To the extent practicable, the

Another two amendments are directed to the provisions of Title VII which set out the time for the filing or charges. The first would extend the allowable time for the filing of an unlawful employment practice charge from 90 to 180 days. The second would make EEOC enforcement the person aggrieved's exclusive remedy save for deferrals to State or local FEP agencies and so called "pattern or practice" actions brought by the Attorney General. (Sec. 3(b).)

As proposed by the bill, the EEOC would be authorized to bring a civil action if, within 30 days from the filing of the charge (or within 30 days of the expiration of the time allowed for complying with the deferral period), it determines that informal methods will not achieve voluntary compliance. However, should the EEOC fail or refuse to bring such proceedings within 180 days following the filing of a charge the person aggrieved has an additional 90 days during which to bring his own action. He may bring his own action in these circumstances without regard to whom filed the initial charge. As is the current practice, the court may appoint an attorney to represent the party aggrieved and discharge him from any and all liability for fees, costs, or security. Similarly, the bill retains the provisions of title VII which enable the Attorney General to intervene in job discrimination suits for as much as 60 days to permit further administrative efforts, at any level, to arrive at voluntary compliance. (Sec. 3(c).)

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	EEOC shall conduct its proceedings in accordance with the rules of evidence in U.S. District Courts. (Sec. 4(a) "(g)".)	
	If the EEOC finds that respondent has engaged in an unlawful employment practice, it shall state its findings of fact and issue and serve the parties with an order requiring the respondent to cease and desist from such unlawful employment practice and take such affirmative action as will effectuate the policies of the Act. An award of back pay is not to exceed that which has accrued more than two years prior to the filing of a charge with EEOC. Interim earnings operate to reduce backpay otherwise allowable. EEOC also may require respondent to make periodic reports detailing compliance with its order.	
	If EEOC does not find an unlawful employment practice, it shall state its finding, notify respondent, and dismiss the complaint. (Sec. 4(a) "(h)".)	
	After filing the charge but before filing the record in a court, proceedings may be ended by agreement between EEOC and parties and EEOC may at any time, upon reasonable notice, modify or set aside, wholly or partly, any order or finding issued or made by it. An agreement thus approved by the EEOC is enforceable in the courts in keeping with other provisions of this bill. (Sec. 4(a) "(i)".)	
If an employer, employment agency, or labor organization fails to comply with a court order, the EEOC may institute proceedings to compel compliance. (Sec. 706(i).)	Findings of fact and orders made or issued are to be determined on the record consistent with the requirements of the Administrative procedure Act. (Sec. 4(a) "(j)".).	
All appeals from a district court judgment are to be made to the courts of appeals. (Sec. 706(j).)	Any party aggrieved by a final EEOC order may obtain judicial review of the same in the U.S. Courts of Appeals. Petitions for judicial review must be filed within 60 days after service of the order. Review of such an order may be had in the court of appeals having jurisdiction over the place where the act complained of occurred or where respondent resides or transacts business. A copy of the petition is to be sent to the EEOC and to all other parties to the administrative proceedings and the EEOC, in turn, is to file a copy of the record of its proceedings with the court in accordance with 28 U.S.C. 2112. Upon filing of the petition, the court acquires jurisdiction and may issue such temporary relief or restraining order as it deems just and proper and enter on the record a decree enforcing, modifying, and enforcing as so modified, or wholly or partly setting aside the EEOC order. Intervention by parties before EEOC is authorized. The filing of a petition for judicial review does not stay the contested order unless the court directs otherwise. Objections not urged before EEOC, its members or agents shall not be considered by the court except in extraordinary circumstances. EEOC findings on questions of fact are conclusive if supported by substantial evidence on the whole record. The court may direct the EEOC to take additional evidence upon a satisfactory showing that such evidence is material and that there were reasonable grounds for failing to adduce it earlier. The record thereafter may be modified in accordance with any evidence so turned up. Upon the filing of the record with the court, its jurisdiction shall be exclusive and its degree final except that it may be reviewed by the Supreme Court. The courts are urged to handle expeditiously all matters related to equal opportunity enforcement proceedings. (Sec. 4(a) "(k)".)	
Reasonable attorney's fees are authorized as an element of costs. Although neither the EEOC nor the United States is eligible to receive attorney's fees, they are liable for such costs the same as a private person. (Sec. 706 (k).)	The EEOC may petition the courts of appeals for enforcement of its orders and appropriate temporary relief or restraining orders. Procedures are the same as those authorized in connection with review of EEOC orders. (Sec. 4(a) "(l)".)	

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If a petition for judicial review of an EEOC order is not timely filed (within 60 days after service of the order) the findings of fact together with the order become conclusive in any action by the EEOC to enforce the same. Upon the filing of a petition for enforcement by the EEOC in these circumstances, the clerk of the court of appeals is to enter a decree enforcing the order and to transmit copies of the decree to the EEOC and the parties. (Sec. 4(a) "(m)".)

Any person entitled to relief under an EEOC order may move to have it enforced if within 90 days of service of the order, neither the losing party has sought to review it nor the EEOC has moved for its enforcement. Here also, findings of fact and the order are deemed to be conclusive and the clerk of the court is to enter a decree enforcing the order and to transmit copies of the decree to the EEOC and the parties. (Sec. 4(a) "(n)".)

The EEOC's attorneys are authorized to conduct all litigation involving the Commission except in the Supreme Court. Litigation involving the Commission in the high court is to be conducted by the Attorney General. (Sec. 4(a) "(o)".)

If, after the filing of a charge, the EEOC's preliminary investigation leads it to conclude that prompt judicial action is necessary to preserve its power to grant effective relief, it may bring an action for appropriate temporary or permanent relief in U.S. District Court for the district where the unlawful employment practice was allegedly committed, or in the district where the aggrieved person would have been employed, or, as a final resort in the district where the respondent had his principal office. Accordingly, the district court in its discretion may grant injunctive relief or temporary restraining order subject to Rule 65 of the Federal Rules of Civil Procedure. (Sec. 4(a) "(p)".)

The occurrence of either one of two circumstances enables the person aggrieved to bring a civil action to obtain relief from an alleged unlawful employment practice. First, such an action may be brought within 60 days of receipt of notification from the EEOC that it has dismissed the charge. Second, such an action may be brought if the EEOC fails to act on a charge within 180 days of its filing (or such time as required to defer to State or local law). The commencement of a civil action pursuant to these provisions divest the EEOC, or the Attorney General in a case involving a government, governmental agency, or political subdivision, of any jurisdiction in the case. However, the court, in its discretion, may allow the EEOC to intervene in any private suit which the EEOC, or Attorney General in a case involving a government, governmental agency, or political subdivision certifies to be of "general public importance." (Sec. 4(a)"(q)(1)".)

Similarly, the right to bring a private action is terminated when the EEOC either issues a complaint or enters into a conciliation agreement which is agreeable to it and the person aggrieved. The right of an aggrieved person to bring a private action would terminate if the Attorney General files suit under section 706(f). The party aggrieved may bring a private action if the EEOC does not issue an order within 180 days after it issues a complaint. If a private suit is started within one year of the issuance of the complaint the EEOC may petition the court not to proceed with such suit. The court may dismiss or stay the suit if the EEOC shows that it has been acting with due diligence, that it expects to issue an order within a reasonable time, that the case is exceptional, and the extension of its jurisdiction is warranted. (sec. 4(a)"(q)(2)".)

The Federal district courts have jurisdiction to try job bias suits authorized by this act. Proper venue lies with the judicial dis-

Retains provision of existing law with language making it clear that the district court shall have jurisdiction to grant "such tem-

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trict in the State in which the practice occurred, in the district in which the relevant employment records are kept, or in the district in which the plaintiff would have been employed but for the alleged discrimination. In the rare case where the respondent cannot be served in any of these districts, suit may be brought in the district of his principal office. (Sec. 706(f).)	porary or preliminary relief as it deems just and proper." (Sec. 4(c).)	
If the court finds an intentional violation, it may enjoin the respondent from engaging in further violations and order such affirmative action as may be appropriate. Appropriate forms of relief include reinstatement or hiring of employees, with or without backpay, but interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable. The court cannot, however, require the admission or reinstatement or promotion of an individual as a member of a union or the hiring, reinstatement or promotion of an individual as an employee, or the payment to him of any backpay, if he was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin, or for participation in an investigation, proceedng, or hearing designed to eliminate discrimination. (Sec. 706(g).)	Retains provisions of existing law.	The bill conditions the grant of relief in two particulars not found in the current law. First, the court may not grant any relief with respect to any person who neither has filed a charge nor had a charge filed on his behalf. Second, the court is prohibited from ordering backpay or other liability which accrued more than two years before the filing of the complaint. (Sec. 3(e).)
		The bill would add a new provision which would authorize the EEOC to seek judicial aid as may be needed pending final administrative proceedings in connection with an unlawful employment practice charge. The courts are directed to expedite the handling of this and all other litigation brought by the EEOC. However, before the court may grant any form of temporary, interim relief, the EEOC would be required to show that absent such relief "substantial and irreparable injury to the aggrieved party will be unavoidable." (Sec. 3(g).)
Enforcement (Attorney General): The present law authorizes the Attorney General to bring a civil suit if he believes that there is a "pattern or practice of resistance to the full enjoyment of rights" protected by Title VII. Before bringing suit, however, he must be convinced that the "pattern or practice is of such nature and is intended to deny the full exercise" of these rights. The complaint must be signed by the Attorney General and must set forth facts pertaining to such "pattern or practice" and request such relief, including an application for a permanent or temporary injunction, restraining order or other order as he deems necessary. (Sec. 707.)	The bill would transfer the Attorney General's "pattern or practice" authority to the EEOC two years after enactment of the bill. In the interim, the Attorney General and the EEOC would have concurrent jurisdiction in the "pattern or practice" area. The transfer contemplated by the bill may be put off or otherwise altered by the President in the exercise of his Reorganization Act authority. All "personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in this connection" are to be transferred to the EEOC. During the transfer period, "proceedings shall continue without abatement, all court order and decrees shall remain in effect, and the EEOC will be substituted as a party for the United States Attorney General, as the case may be." After passage of this bill, the EEOC will investigate "pattern or practice" charges filed by or on behalf of a person or by a Commissioner. Proceedings in "pattern or practice" suits are to be the same as those authorized for judicial review of and enforcement of EEOC orders. (Sec. 5.)	Retains provisions of existing law.
Investigations, inspections, records, State agencies: Title VII grants the EEOC access to and the right to copy evidence of a person being proceeded against or investigated. The right to copy is strictly limited to evidence that relates to unfair employment practices as de-		Retains provisions of existing law.

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fined above, and that is relevant to the charge under investigation by the EEOC. (Sec. 709(a).)		
The EEOC is authorized to utilize the services of State and local agencies, and with their consent, and reimburse them for services rendered to assist the Commission in carrying out the provisions of this title. In addition the EEOC is authorized to enter into agreements with State and local agencies relinquishing the Commission's concurrent jurisdiction over such classes of cases as may be specified therein. (Sec. 709(b).)	The bill would enlarge the EEOC's present authority to utilize the services of State and local agencies, and to reimburse them for services rendered by way of assisting it to carry out its responsibilities. As amended by this bill, the EEOC would be permitted, *inter alia,* to contribute to research and other projects of mutual interest. Payments in advance as well as by reimbursement are authorized. (Sec. 6(a)"(b)".)	
The EEOC is authorized to impose recordkeeping and reporting requirements on employers, employment agencies, and labor organizations subject to the Act. Similarly, covered persons and organizations are required to maintain records including, but not limited to, a list of applicants who wish to participate in apprenticeship and other training programs, the chronological order in which applications are received, and a detailed description of the manner in which participants are selected. (Sec. 709(c).)	The bill would keep the recordkeeping requirements of the Act intact except that the provision allowing for modification in certain hardship situations is altered so as to permit persons or organizations experiencing hardship to petition the courts for relief after having exhausted all administrative avenues for such relief. (Sec. 6(a)"(c)".)	
If an employer, employment agency, or labor organization is subject to a State or local FEP regulation, it is not subject to the recordkeeping or reporting requirements adopted by the EEOC. However, the EEOC may require such notations on records kept or required to be kept "as are necessary because of differences in coverage or methods of enforcement" between State and local FEP laws and Title VII. (Sec. 709(d).)	In place of the provision to Title VII which permits modification of recordkeeping requirements where similar or related records are kept pursuant to some other law, the bill would order the EEOC to consult with other interested State and federal agencies with a view to coordinating their recordkeeping and reporting requirements. The EEOC is directed to furnish its information to State and local antidiscrimination agencies that request it on condition that such agencies maintain confidentiality of material prior to the commencement of its proceedings. Disclosures in violation of this condition constitute grounds for refusing to honor future requests (Sec. 6(a) "(d)".)	
Another exemption from the recordkeeping requirements is authorized in the case of Government contractors who are subject to the reporting requirements of Executive Order 11246, as amended, which governs employment practices by contractors and subcontractors on federal projects or federally assisted projects. (Sec. 709(d).)		
EEOC officials and employees are prohibited from disclosing any information obtained during an investigation. This prohibition carries a maximum fine of $1,000 or imprisonment for one year (Sec. 709(e).)		
	The bill would add a new provision authorizing the EEOC or the Attorney General to require any person having custody of records or papers kept pursuant to the law to make them available for inspection or copying. The district court having jurisdiction over the place where the demand is made may be petitioned for purposes of compelling production of such records or papers. (Sec. 6(b) "(e)".)	
"The Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation." It may "demand" (1) the right to examine and copy evidence in the possession or control of the respondent, (2) production of such evidence, and (3) the testimony of a witness under oath. If such a "demand" is not complied with, the EEOC may seek court enforcement of its "demand". It cannot require the attendance of a witness outside the State where he is found, resides, or transacts business, or the production of evidence outside the State where it is kept. (Sec. 710(a), (b).)	The bill would revise the provisions of existing law relating to investigations by incorporating the provision of section 11 of the National Labor Relations Act (29 U.S.C. 161). Accordingly, the EEOC would have access to and the right to copy relevant evidence of a person under investigation or party to a proceeding. It shall issue subpoenas to require the appearance of witnesses or the production of evidence upon application of a party to a proceeding. Any objection to a subpoena on grounds that the evidence sought is not relevant, must be made within five days of its being served. The attendance of a witness or the production of evidence may be required from any place in the U.S. or U.S. possessions and the Federal courts may be petitioned to compel compliance with a subpoena. Witnesses may not refuse to comply with a subpoena on self-incrimination grounds, but may not be proceeded against on the basis of evidence obtained from him. Complaints and all other forms of process may be served personally or by regis-	
Anyone served with a "demand" for access to or the production of evidence by the EEOC has 20 days in which to object. A petition for relief from a Commission "demand" must specify each ground upon which the petitioner seeks relief, but objections not raised within 20-day period cannot be raised in defense to a proceeding to enforce the		

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"demand", in the absence of special circumstances. (Sec. 710(c).)	tered mail or telegraph, or by leaving a copy at the principal office for the person being served. No subpoena shall be issued on the application of any party to the proceedings before EEOC until the respondent has been served a copy of the complaint and notice of a hearing. Witnesses and persons deposed are entitled to similar proceedings in Federal district courts. (Sec. 7.)	
Posting requirements: Employers, employment agencies, and labor organizations subject to Title VII are required to post in conspicuous places notices to be prepared or approved by the EEOC setting forth excerpts of the Act and other relevant information. Willful violations of the posting requirements carry a fine of not more than $100 for each offense. (Sec. 711.)	Retains provisions of existing law.	Retains provisions of existing law.
Veterans' preference: Title VII makes clear that it does not repeal or modify any Federal, State, territorial or local law creating special rights for veterans. (Sec. 712.)	Retains provisions of existing law.	Retains provisions of existing law.
Rules and regulations: The EEOC is empowered to issue, amend, or rescind suitable procedural regulations to carry out its functions. Such regulations must be in conformity with the standards and limitations of the Administrative Procedures Act. (Sec. 713(a).) In any action or proceeding based upon an alleged unlawful employment practice, no person will be subject to any liability or punishment because of the commission of an unlawful employment practice if he shows that the act complained of is in good faith, in conformity with, or in reliance upon a written interpretation of the EEOC. No such person will be subject to any liability or punishment because of his failure to publish or file such information in good faith in conformity with instructions of the EEOC. These good faith defenses are effective even though the interpretation or opinion in question is modified or rescinded or is determined by judicial authority to be invalid and even though, after publishing or filing, it is determined by judicial authority not to be in conformity with the provisions of Title VII. (Sec. 713(b).)	Retains provisions of existing law. The bill would amend the EEOC's rulemaking authority to authorize it, except in specified instances, to delegate its powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, etc. Exemptions from this broad authority to delegate include the power to issue cease and desist orders, the power to modify or set aside its findings, the power to make rules of general applicability, the power to enter to rescind agreements with the State and local nondiscrimination agencies whereby it refrains from processing a charge in any case or cases or to relieve certain persons from recordkeeping requirements; however, it is not given authority to provide for conduct of hearings by other than hearing officers as specified in 5 U.S.C. 556. The EEOC may delegate to three or more of its members all of its power. The bill also would extend criminal safeguards against interference with officials of 18 U.S.C. 1111 and 1114 to EEOC officers, agents and employees. (Sec. 8(g).)	Retains provisions of existing law.
	Equal employment opportunity put under one roof: The bill would repeal an obsolete provision of existing law that directed the Secretary of Labor to make a full and complete study of the problem of age discrimination in employment and to report to Congress thereon by June 30, 1965. In its place the	

PRESENT LAW, TITLE VII	S. 2515 (WILLIAMS, ET AL.) AS REPORTED TO SENATE (S. REPT. NO. 92–415)	H.R. 1746 (ERLENBORN)
	bill would add a new provision transferring to the EEOC all functions relating to contract compliance conferred upon the Secretary of Labor by Executive Order 11246, as amended, together with necessary personnel, property, records, and unexpended balances. (Sec. 10.) A new section would be added to the Act dealing with non-discrimination in employment by the federal government. All personnel actions of the U.S. Government and in the U.S. Postal Service and Postal Rate Commission in the D.C. government affecting employees or applicants for employment are to be free of discrimination on account of race, color, religion, sex, or national origin. Aliens employed abroad are excluded from these provisions. The Committee report gives the Civil Service Commission authority to enforce these provisions. The CSC may remedy violations by awarding back pay for applicants as well as employees, denied promotion opportunities, reinstatement, hire, immediate promotion and any other remedy needed to carry out the purposes of this section. The CSC is authorized to issue appropriate rules and regulations. It also is charged with mailing annual reviews of national and regional equal employment opportunity plans and conducting reviews and evaluations of all agency equal opportunity programs. Agency and department heads of the executive branch and D.C. officials are required to comply with rules and regulations issued pursuant to this section, to submit an annual equal employment opportunity plan, and to notify any employee or applicant of any final action taken filed by him. Provisions of 706 (q) through (w.) applicable to private actions by aggrieved persons are made applicable to U.S. government workers and applicants for Federal employment. Both would be authorized to file a civil action within 30 days of notice of final action on their complaints or, alternatively, after 180 days from the filing of an initial charge, or an appeal with the EEOC. A final subsection makes clear that nothing in this bill, if adopted, would relieve any governmental agency or official of his duty not to discriminate as spelled out in the Constitution, statutes or Executive Order No. 11478. (Sec. 11.) A section is continued which would call for mutual consultation by the Attorney General, the CSC and the EEOC with respect to rules, regulations and policies. (Sec. 12.)	
Miscellaneous: Title VII provides that "nothing in this title shall be deemed to exempt or relieve any person from liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit doing any act which would be an unlawful employment practice under this title." (Sec. 708.)	Retain provision of existing law.	Retains provisions of existing law.
Nothing in Title VII requires that preferential treatment is to be given to any individual or group on account of an imbalance that may exist with respect to the total number of persons of any race, color, religion, sex, or national origin in comparison with the total number or percentage of persons in that or any other community. This provision applies to the admission to apprenticeship or other training programs as well as hiring by employers, referrals or classifications by employment agencies, and admission to union membership. (Sec. 703(j).)	Retains provisions of existing law.	Retains provisions of existing law.
	The bill adds a provision which makes it clear that the new enforcement authority conferred hereby is not to apply to charges filed before this bill becomes law. (Sec. 13.)	

Mr. ERVIN. Mr. President, will the Senator yield for some questions?

Mr. WILLIAMS. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. As I understand this bill, after the lapse of a year from its enactment, the commission would undertake to supervise the hiring of State employees.

Mr. WILLIAMS. Well, that is not exactly what the bill provides. In reply to the Senator, it does not provide for supervision of hiring. It would provide that the commission would work together with the States to insure that there is not discrimination for the listed reasons in employment at the State and local levels of government.

Mr. ERVIN. The commission would have the power to determine whether there was discrimination, and then to tell the States that they would have to hire the man that had been discriminated against—the man or the woman?

Mr. WILLIAMS. As the Senator knows, under the procedures provided in the bill, the Equal Employment Opportunity Commission would first be required to wait upon State action. I believe that 26 of the States have comparable provisions in State law providing for enforcement of the general prohibition against discrimination in both public and private employment.

Obviously, as the Senator knows, discrimination in employment in government at any level is prohibited. The State law specifically provides for enforcement of that in 26 States.

Mr. ERVIN. But the 22 States that do not have any State law to that effect——

Mr. WILLIAMS. On the question of enforcement in State and local government employment, the answer, as I understand it, is yes. Whether that is precisely the number, there are a number of States that do not have enforcement, yes.

Mr. ERVIN. As I understand the measure, it would apply to all State officials who had the power to hire people. Would the Commission have the power, under the bill, to tell the Governor of North Carolina, for example, whom he should hire as a secretary?

Mr. WILLIAMS. The answer is clearly no.

Mr. ERVIN. Well, if the Commissioner found that the Governor of North Carolina preferred to hire a secretary of his own race, would the Commission not have the right to compel him to hire a secretary of another race?

Mr. WILLIAMS. This bill would provide that he could not discriminate in his employment because of the listed reasons. Race is one of them.

Mr. ERVIN. Is there any difference between a discrimination and a preference? Suppose the Governor of a supposedly sovereign State prefers to hire a secretary who is of his own race. If he did so, he would violate the provisions of this bill, would he not?

Mr. WILLIAMS. The Senator referred to a secretary. Is this a cabinet position that the Senator is referring to?

Mr. ERVIN. No, a secretary that takes dictation from the Governor.

Mr. WILLIAMS. I see. I refer the Senator from North Carolina to page 11 of the committee report, and suggest we read it together:

A question was raised in the Committee concerning the application of Title VII in the case of a Governor whose cabinet appointees and close personal aides are drawn from one political party. The Committee's intention is that nothing in this bill should be interpreted to prohibit such appointments unless they are based on discrimination because of race, color, religion, sex or national origin. That intention is reflected in sections 703(h) and 706(g) of the law.

Mr. ERVIN. Suppose the Governor of a State prefers to dictate to a male secretary. He has some ladies who apply to him for the job. He prefers to hire a man for that purpose rather than a woman, and does so, although all applicants are equally capable of doing the job, or the women might be superior to the man in qualifications. Then the Federal Government would have the power to tell the Governor of a State that he would have to hire a woman rather than a man to be his secretary, would it not?

Mr. WILLIAMS. The question is——

Mr. ERVIN. The question is that the Federal Government would have the power to tell the Governor of a supposedly sovereign State that he had to hire a male secretary in preference to a female, or the converse, hire a female secretary in preference to a male, would it not?

Mr. WILLIAMS. If the question was simply brought down to that he refused to hire a person because the person was a woman, this is interdicted by law.

Mr. ERVIN. By this law. Not other law, but this law.

Mr. WILLIAMS. I believe that this particular question has come to the Supreme Court, or I believe that it is on its way to the Supreme Court now.

Mr. ERVIN. Yes. But the existing law about so-called fair employment practices does not apply to State governments or political subdivisions of a State.

Mr. WILLIAMS. That is right.

Mr. ERVIN. This bill is designed to make them apply to State employment practices.

Mr. WILLIAMS. That is right.

Mr. ERVIN. So under this bill a Federal agency would have the power, if it though there was any discrimination on account of race, sex, or national origin, to tell the University of North Carolina whom they had to hire as a professor of philosophy, would it not?

Mr. WILLIAMS. Of course, the procedure here is for enforcement, if this bill became law. In this area, the Attorney General brings the complaint against the agency that is charged, in the State or the local government, with discrimination against an individual because of his race, his color, his sex, or his national origin, and this goes to trial. It goes to trial right there in the district court in the State of North Carolina.

Mr. ERVIN. Is the Senator from North Carolina correct in saying that this bill makes a distinction in its enforcement as against the State or political subdivision of the State and its enforcement against a private employer.

Mr. WILLIAMS. Yes.

Mr. ERVIN. And one has to go to the Federal district court to proceed against a State or a political subdivision of a State.

Mr. WILLIAMS. That is right.

The bill as originally introduced did not proceed in this way. It was felt—I was sitting as chairman—and I agreed, after it was fully discussed, that it would be better received, perhaps, when the Federal Government was moving into the dispute with a State or one of its subdivisions; that an agency of the Federal Government not be the moving party, but one of its departments, its law department, through the Attorney General. The administration did accept and agree with it.

Mr. ERVIN. By this bill, the executive branch of the Federal Government is given the power to go into the judicial branch of the Federal Government and ask it to tell State officials who control the hiring practices of the State what to do. Is that not so?

Mr. WILLIAMS. It says there shall be no discrimination because of one's color. I will tell the Senator that. It is as clear as can be.

Mr. ERVIN. Does not the word "discrimination" means a preference—if one exercises a preference, is he not practicing a discrimination?

Mr. WILLIAMS. A prejudice or a preference, put it as you will. I would say a prejudice rather than a preference.

Mr. ERVIN. Those of us who are married proposed to one girl because we preferred her over another. Is that not a discrimination?

Mr. WILLIAMS. That will be the day, when the Senate involves itself in that.

Mr. ERVIN. The Senate has involved itself in that, and Congress has, because in the open occupancy bill it is stated that it is discrimination to prefer to rent a house to a man of your own race in preference to a man of another race, or to rent it to a person of your own religion in preference to a man of another religion.

Mr. WILLIAMS. I thought the Senator was talking about matrimony. The Senator shifted gears on me, from matrimony into housing.

Mr. ERVIN. I brought out the point to show that every one of us discriminates every day in all the relationships of life. We discriminate when we decide to walk along the right side of the street instead of the left side, because that is the exercise of a preference.

Under this bill the Governor of a State, which was at one time alleged to be sovereign, cannot even exercise his own preferences in employing his secretaries, without running the risk of being hailed into a Federal court by the Department of Justice, and having the Federal court tell him who he has to hire. I think it is rather drastic to enact a bill which empowers a Federal agency to supervise whom the University of North Carolina employs to teach philosophy. That is exactly what this bill will do.

The distinguished Senator from New Jersey said earlier that there is something in the committee report that states that one cannot interfere in the case of employees of Cabinet members, but nothing in this bill says that; and the bill

controls rather than the committee report.

Mr. WILLIAMS. If the Senator is talking about racial discrimination or preference, the 14th amendment goes back more than one hundred years. There, the constitutional equality is protected. What we are doing is exactly what is suggested in the 14th amendment, section 5:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

And here we are, legislating.

Mr. ERVIN. One of the provisions of that amendment is that nobody shall be deprived of liberty without due process of law; and at one time the 14th amendment was construed to mean that a man had liberty of contract, which this bill would take away.

Mr. WILLIAMS. Nor deny to any person within its jurisdiction the equal protection of the laws.

People are protected in this country against discrimination because they are black. The Constitution has said it, and what we are doing now is making sure that the Constitution means what it says. It is as simple as that.

Mr. ERVIN. The Constitution also says, in substance, that the Constitution was written to create an indestructible union composed of indestructible States; and here is a bill that would give the Federal Government, acting through the Federal court, the power to supervise the hiring practices of every official in the State or its subdivision. The bill would empower the Federal court at the suit of the Attorney General to govern the employment practices whereby all persons, other than elected officers, are engaged to work for a State or any of its political subdivisions. Neither a State nor any of its subdivisions could exercise any preference in employment on account of race, religion, or national origin.

Mr. WILLIAMS. I stated earlier that it is not as broad as that. Basically, to all employees, yes. But there are those who can be hired for other reasons, even political reasons, but they cannot be discriminated against because of color.

Mr. ERVIN. But nothing in this bill says that. The bill controls, not the report of the committee. The State cannot exercise any preference as between persons of different races, religion, or national origins. It means in practical operation that the State will be compelled to hire members of minorities in preference to members of the majority.

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

Mr. WILLIAMS. If the Senator would refer to page 63 of the committee report and permit me to yield to the Senator from New Mexico——

Mr. ERVIN. The Senator from North Carolina looks at the bill. The committee report is inconsistent with the provisions of the bill on that point, and the provisions of the law control over a committee report where there is an inconsistency.

Mr. MONTOYA. Mr. President, will the Senator yield at this point?

Mr. WILLIAMS. This is amending present law, and present law covers this. I yield.

Mr. MONTOYA. I have listened with great interest to the colloquy, and I believe something has not been mentioned which is the main thrust of this bill—that the provisions of this bill do not apply to a State unless that State has a law which prohibits the practice about which a complaint is being made. If a State has no such law and if the particular practice which is being complained of is not violative of any criteria in the State law, the Equal Employment Opportunity Commission has no right to intervene, under the provisions of this bill. Is that correct?

Mr. WILLIAMS. Where there is State procedure, the Federal Government waits upon the States.

Mr. MONTOYA. Yes. As I understand the provisions here—I am referring to the provisions on pages 35, 36, and 37 of the bill, the State must have a law which prohibits such an employment practice. The State must have a certain procedure which must be adhered to, and it must make certain findings that either the practice complained of did occur or did not occur. Then the Federal Employment Commission steps in to make a final judgment; but before that final judgment is made, they go in to persuade, if a certain practice has been going on which is violative of State law. Is that correct?

Mr. WILLIAMS. That is basically correct.

Mr. MONTOYA. So, up to that point, there is no mandate from the Federal Commission. The Federal Commission has no authority to step in unless there is substantial evidence that the State law has been violated by a State official with respect to the employment of an individual.

Mr. WILLIAMS. That is right. That pertains in 26 States. New Mexico is one of those States.

Mr. ERVIN. I say this with all due respect to the Senator from New Mexico. The way I read the bill is that it applies to all 50 States of the Union regardless of whether they have a State law on the subject or not. The only difference between a State which does not have a State law and a State which does have a State law on this subject is that the Federal authorities will stay their hands temporarily to give the State authorities, acting under State law, a chance to decide the matter.

Mr. WILLIAMS. That is not inconsistent with what the Senator from New Mexico said.

Mr. ERVIN. Oh, yes. He said that the bill did not apply to a State that did not have the State law.

Mr. MONTOYA. Let me read the particular provision, on page 36, beginning on line 22, section (d):

> In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action. . . .

Mr. ERVIN. Before any action, yes——

Mr. MONTOYA. "Before taking any action with respect to such charge," yes—

> notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

The condition in that particular position is that the State must have a law prohibiting such practices.

Mr. ERVIN. I hate to disagree with my good and genial friend from New Mexico, but what I read says exactly the opposite. The bill says that where a State has a law on the subject the Commission before acting in respect to a charge arising in that State will notify the appropriate State or local officials and afford them a reasonable time to correct the matter.

But those provisions have no application to a State which has no State law on the subject. The Commisison can "sic" the Attorney General and the Attorney General can "sic" a Federal judge on the State having no such State law immediately.

Mr. WILLIAMS. If I could intervene there, this is the situation. It is understandable because the State of New Mexico has such a law. What the Senator from New Mexico is stating applies completely to the State of New Mexico.

Mr. MONTOYA. Right.

Mr. WILLIAMS. I come from a State, and the Senator from North Carolina comes from a State which are otherwise. Our States do not have State laws that comes from a State, which are otherwise. Therefore our situation is different.

Mr. ERVIN. But the Senator from North Carolina would say, if his hearing apparatus is working properly, that what the distinguished Senator from New Mexico said is that this bill did not apply to a State that did not have a State law on the subject covered by the bill.

I say that the bill applies to all 50 States and the only difference between them is that the bill can and be immediately applied to a State which does not have a State law, but that where a State does have a State law on the subject the Commission must wait until the period of time specified on page 37 of the bill in section (d) has elapsed.

Mr. WILLIAMS. I can only point to the word "immediately." All the reasonable procedures are there before the Federal Attorney General would, indeed. move to file in a court of law against a State or a city or a county. So it is not immediately. All of the reasonable requirements are there for reasonable men to try to work towards no discrimination in a State or local government; but I will say again that it is true the State of North Carolina and the State of New Jersey, which we represent, are two of the States that do not have the State law. The great State of New Mexico, enlightened as it is, does.

Mr. MONTOYA. If the Senator will yield further to me, in answer to what the Senator from North Carolina has

stated, I would like to ask either the Senator from New Jersey or the Senator from North Carolina, what is the purpose of this particular language, then, if the Senator from North Carolina is correct, the language occurring on page 35, beginning on line 3—

. . . the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d).

Mr. ERVIN. That makes the same distinction. It provides that where there is a State law on the subject the commission will accord respect to the findings of State authorities acting under the State law.

Mr. MONTOYA. Therefore, this law presumes that its application shall be triggered only when it seeks to review findings by State or local law with respect to prohibited employment practices.

Mr. ERVIN. Oh, no. Oh, no. Not the way I read it. This bill applies to every State in the Union and every political subdivision of every State, but it makes a distinction between a State which has a law authorizing its authorities to deal with the situation under State law, and a State which does not have such a law.

The bill applies to all States, but the Commission is required to postpone action until in a State having a State law the State authorities are given a chance to act. In States where the State acts under State law, the Commission will not reverse its action peremptorily, but will give due respect to the findings of the State or local authorities.

My feeling about this bill would be dissipated substantially if it did state that there was nothing in the bill applicable to any State which does not have a State law of this nature. If the Senator from New Jersey would accept an amendment to that effect, I will sit down and be quiet for the time being.

Mr. MONTOYA. I have not been able to find any language in the bill which indicates that the bill does apply in two situations. If the Senator is correct, then there are two proceedings here. One would be where the Federal Employment Opportunities Commission steps in to review the reactions under a State or local law, and the other would be a proceeding whereby the Federal Employment Opportunities Commission steps in to review, prohibiting an employment practice under Federal law when there is no State law or local law to govern such a violation.

Mr. ERVIN. I have no difficulty finding the provision that my good friend has not found. It is on pages 32 and 33, subsection (1). It amends the original act of 1964 so as to make it applicable to governments, governmental agencies, and political subdivisions.

Also on the next page, page 33, subsection (b), it brings all States and political subdivisions of States under the bill by omitting the language of the 1964 act which exempted States and political subdivisions of States from the act. So that brings them in.

Also on page 35, subsection (5), it describes the activities that come under this bill by these words in—

. . . and further includes any governmental industry, business, or activity.

So that is why the State governments and their subdivisions are brought in—all of them. None of them are exempted.

Let me ask another question. If the authorities of a private school, for example—a private military school—prefer to hire a man to be their instructor in military tactics, and a former WAC or former WAVE want the job, but they prefer the man to the former WAC or the former WAVE, this commission can compel that private school to hire the WAC or the WAVE rather than the man, can it not?

Mr. WILLIAMS. If the sole reason for denying employment was that the employed person in that case was a woman, that would be prohibited.

Mr. ERVIN. Or if they preferred to hire the one they did hire because he was a man rather than the WAC, that would be a violation of the act.

Mr. WILLIAMS. I am not too sure that that follows. If there were no WAC waiting to be hired, there would be no way to test it.

Mr. ERVIN. I am asking a hypothetical question.

Mr. WILLIAMS. The Senator means if there were two applications, one from a WAC and one from a WAVE?

Mr. ERVIN. The Senator is correct, and if they were familiar with military tactics in the school. If the board of trustees preferred a man instead of a woman, they would be discriminating.

Mr. WILLIAMS. The Senator could put it in the context of the Naval Academy. We would then have a little problem. It is an interesting problem that the Senator is exploring.

Mr. ERVIN. We have a proposed constitutional amendment pending that would convert the service academies into coeducational war academies.

Does not the Senator from New Jersey think that the board of trustees of a State university are better qualified to select a professor of mathematics or philosophy than a Federal judge or the Attorney General?

Mr. WILLIAMS. If there is discrimination practiced in the university, there is an action at law for the individual discriminated against, if the reason is race.

Mr. ERVIN. For example, this bill also refers to national origin. Let us get at the matter of national origin. Assume that the University of North Carolina wants a professor of history, and they prefer that that professor be a man who was born and reared in North Carolina, rather than someone who was born and reared in Australia. If they prefer the North Carolinian to teach that history course rather than someone from Australia, they would be subject to being hailed into the Federal court and being told by the Federal judge that they would have to hire the Australian rather than the North Carolinian, would they not?

Mr. WILLIAMS. Is the hypothesis the Senator is suggesting that the sole reason for not employing the other individual was that he was from Australia?

Mr. ERVIN. If both of them are equally qualified and the board of trustees prefers to hire the man born in North Carolina rather than a man born in Australia to teach North Carolina history at the University of North Carolina.

Mr. WILLIAMS. Even in the hypothetical question I see a reason for selecting the North Carolinian that does not have to do with national origin.

Mr. ERVIN. But I am assuming that the board of trustees prefers to hire the North Carolinian rather than the Australian, even though both are equally qualified.

Mr. WILLIAMS. If the reason that a man from Australia, Italy, or Greece, does not receive a job that he has been found to be equally qualified for is his national origin, that is discrimination. That is the enemy, and that is what this legislation goes after.

Mr. ERVIN. The board of trustees of the University of North Carolina would not be allowed under this act to prefer a North Carolinian, even to a Georgian, for example. They could be hailed into Federal court.

Mr. WILLIAMS. The national origin is specifically mentioned. I think there is a separate question as to the State of origin. That is not the language of the legislation.

Mr. ERVIN. No, but even though they do not get their full rights under the Constitution of the United States, North Carolinians are generally considered to be Americans. That would be their national origin.

Under North Carolinian law, the sheriff of a county is allowed to select deputy sheriffs to serve under him. This bill would give the Federal judge jusisdiction on petition of the Attorney General to tell the sheriff whom he shall appoint as deputies, assuming that he has eight or more.

Mr. WILLIAMS. No.

Mr. ERVIN. Why not?

Mr. WILLIAMS. I should have referred to a section in the current law that I did not refer to in our earlier discussion. Section 703(e) does put it in a different way really. The Senator suggested that a person was not hired, because of his national origin.

There can be a preference in employment where that was a reasonable basis in terms of the job, because the present law says:

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise . . . .

So, there can be a selection on that basis, if that were a bona fide basis.

Mr. ERVIN. Would the Senator tell me what text he is reading?

Mr. WILLIAMS. Page 50 of the committee report. And this is the current law. It is printed from the current law.

Mr. ERVIN. I respectfully submit that the committee report is not controlling where the committee report states something that is not in the bill. The bill is what controls.

Mr. WILLIAMS. Or the law that the bill does not change.

Mr. ERVIN. The only law that I know about on it is in the 1964 act where it says that one can discriminate on the grounds of race, sex or national origin where such factor is a bona fide qualification for the job.

Mr. WILLIAMS. This is Public Law 88–352. The provision that I read from is from the law. It is printed word for word in the committee print under the provisions of our own rules. This is in the committee print. This is in the public law, and it is from section 703(e).

Mr. ERVIN. I assume that the Senator is reading from the 1964 act.

Mr. WILLIAMS. The Senator is correct. And that is the law.

Mr. ERVIN. Yes, but there is no bona fide qualification about race, sex, religion, or national origin in teaching history. There is no qualification whatever. There is no bona fide qualification in respect to race, sex, religion or national origin with relation to a police force. That has no application, I submit.

Mr. WILLIAMS. These would be employers who would be covered, and that would apply.

Mr. ERVIN. But that is where race, sex, religion, or national origin is a qualification for the job.

Mr. WILLIAMS. The Senator is correct.

Mr. ERVIN. The provision the Senator has just read allows a church to get a preacher who belongs to the denomination of the church, and things like that.

Mr. WILLIAMS. Or whether it is North Carolina history, and whether the applicant was reared and born and raised in North Carolina.

Mr. ERVIN. There is no qualification either in race, sex, national origin, or religion in teaching history. That is not a qualification.

Mr. WILLIAMS. It is a bona fide qualification. There can be a selection because of——

Mr. ERVIN. Well, I will have to say I do not think that race, sex, religion, or national origin is a bona fide qualification for teaching history.

Mr. WILLIAMS. It would be hard to conceive the situation where it was a bona fide qualification.

Mr. ERVIN. Yes. In fact, I do not have enough imagination to conceive of such a situation.

Mr. WILLIAMS. In the hypothesis the Senator was giving was the North Carolina history to be taught by a North Carolinian and not an Australian?

Mr. ERVIN. Yes.

Mr. WILLIAMS. I can see every reason to find this bona fide qualification.

Mr. ERVIN. Not when you turn this over to a bunch of crusaders.

Mr. WILLIAMS. We are dealing in this matter with the district court and I find them mostly to be reasonable men.

Mr. ERVIN. They would have jurisdiction in the case of Duke University, which is not a State school. Under this legislation the commission can pass on qualifications of doctors of philosophy or professors of mathematics in all non-State colleges in the United States.

What about police forces? Here is the police force of the town. Under this measure the Federal judge, who is set in motion by the Department of Justice and the Department of Justice which is set in motion by the Commission, can tell my hometown whom they have to hire to be policemen. I do not think that is a proper function for any branch of the Federal Government to exercise.

Mr. WILLIAMS. They can say they cannot discriminate, because the man's national origins run back to the other part of the universe.

Mr. ERVIN. They can say, "You cannot refuse to hire this man." We say we prefer someone brought up in the hometown to this other fellow. Their qualifications are the same. So they say, "You have discriminated against the man from Tierra del Fuego to be a policeman there and if you do not hire him, you have to pay his wages anyway."

Is that not what the bill provides?

Mr. WILLIAMS. That is not really a part of this legislation. The question of residency for employment for a police officer is not the thrust and reach of this legislation. There are other provisions, "privileges, and immunities."

Mr. ERVIN. No. In this case one man was from Tierra del Fuego and the other man was born and raised locally. So we have that proposition.

Mr. WILLIAMS. That is possible, yes.

Mr. ERVIN. All I hope is that if this bill becomes law the people who execute it will have more discretion than I think many human beings have.

Mr. WILLIAMS. We are dealing with State and local governments. It was felt, again, that the enforcement of this legislation, when the Federal law is applied to State and local governments, should come from the prestigious level of the Department of Justice, the Attorney General.

I do not think this is particularly a crusade here that we are dealing with. It is not a crusade.

Mr. ERVIN. No, but on most of these commissions there are crusaders. Most of the members of such commissions are crusaders.

Mr. WILLIAMS. What is a crusader? How does the Senator define a crusader?

Mr. ERVIN. They are necessarily so. The commission is the prosecutor; it is an agency which can prefer the charge. It can prosecute the charge, it can act as a jury and determine the facts in connection with the charge, and be the judge and executioner.

Mr. WILLIAMS. That is an alliteration and it sounds like something out of the theater, but it is not the case.

As I explained to the Senator, the commission refers to the Attorney General, the Attorney General carries it against the States or the local government, and it goes to a district court.

Mr. ERVIN. That is only where the proceeding is against the State, but in the case of a private employer, the commission can make the charge——

Mr. WILLIAMS. We are not dealing with governments now.

Mr. ERVIN. No, I am now discussing private employers. It makes the charge, it prosecutes the charge, and then it tries the charge, and then enters judgment. In other words, it combines the office of prosecutor, jury, and judge in one agency. The Supreme Court has had something to say in this regard:

> More fundamental, however, was the purpose to curtail and change the practice of embodying in one person or agency the duties of prosecutor and judge.

I say that no agency should ever be both the prosecutor and the judge. I say it is incompatible with fair play and it should be judged incompatible with due process of law, because if a man prefers a charge against me and prosecutes me, and he will be prone to adjudge me guilty. The accused has a poor chance of ever having his innocence established. So I think that this combining of the offices of prosecutor and judge in the same agency is a prostitution of the judicial process.

Mr. WILLIAMS. If the situation were as the Senator has described after this becomes law I would feel somewhat as the Senator from North Carolina does, but even the bill as first introduced had its separation of functions. But this bill, after it is finally considered here, will have, in my judgment, all of the separation of functions and powers that the Senator is addressing himself to.

Before the Senator came into the Chamber I indicated for the committee that an amendment would be offered by the Senator from Ohio creating the Office of General Counsel. That will more certainly separate the various functions or investigations, the hearing process and prosecutions. These will be separated and it will not be one man. It will be in its separate compartments, in the whole orderly judicial process under due process.

Mr. ERVIN. I have not seen the amendment of the Senator from Ohio, but will it take away and eliminate from the bill the provision authorizing an officer or employee of the commission to prefer a charge?

Mr. WILLIAMS. No; that part is not dealt with by this. A charge can be——

Mr. ERVIN. They can prefer charges?

Mr. WILLIAMS. Yes.

Mr. ERVIN. And then, the commission can determine the validity of the charge.

Mr. WILLIAMS. Yes, but not the same man.

Mr. ERVIN. That is about as separate the Siamese twins were.

Mr. WILLIAMS. The general counsel would, as in other agencies, make an independent evaluation for prosecution.

Mr. ERVIN. Would it prohibit an officer or agent from prosecuting the charge? I refer to the amendment of the Senator from Ohio.

Mr. WILLIAMS. I am sorry. I missed the question.

Mr. ERVIN. Would the amendment to be offered by the Senator from Ohio forbid an officer or agent to prosecute a charge?

Mr. WILLIAMS. As I understand it, the answer to that, if I understand the proposed amendments that will be offered, and if I understand the question, the answer is he cannot prosecute the charge.

Mr. ERVIN. Can he prefer a charge?

Mr. WILLIAMS. Prefer, yes.

Mr. ERVIN. And still the members of the Commission are going to conduct the trial.

Mr. WILLIAMS. He will not be in the trial.

Mr. ERVIN. General Counsel will bring the proceeding, but the same Commission whose agents prefer the charge will be the judge and the jury—not the prosecutor, but the judge and the jury.

Mr. WILLIAMS. Where a Commission employee prefers the charge, he is not part of the jury, and the same would, of course, apply to the decision, excluding an officer or employee who first puts in the charge.

Mr. ERVIN. But it is going to be tried by members who are on the same Commission with him and whose offices are in the same building and who associate with him daily and draw their pay from the same place.

Mr. WILLIAMS. That is right, and the district attorneys live right across the hall from the district judges, appointed by the same appointing officer.

Mr. ERVIN. Yes, but one is the judiciary and the other is the executive, and here we have the executive and judiciary all balled up together.

Mr. WILLIAMS. It is easy to say, but it does not work out that way. It is very easy to say that.

Mr. ERVIN. Yes, it does.

Mr. WILLIAMS. That is why we are separating these functions.

Mr. ERVIN. It is comparable to having the prosecuting attorney, who makes the change or the grand jury that returns the bill of indictment sitting on the bench to determine the validity of the bill of indictment. So the divorce is not enough.

Mr. WILLIAMS. Let me stay with this analogy. I hope the respondent will have with him an attorney more than a defendant can have in a grand jury. There is a record on this. When it comes to a record, the whole record goes to the Court of Appeals and, if necessary, to the Supreme Court of the United States.

Mr. ERVIN. Yes, it does, but there is a provision in the bill that if the findings of the commission are supported by substantial evidence—and 5 percent may be substantial—they are binding on the courts and they cannot do anything about it. If I can write the verdict, I do not care who writes the judgment; the findings of fact determine the kind of judgment which must be written.

Mr. WILLIAMS. I think we are talking about the time-honored test of "substantial evidence." This is time-honored. I always thought that term was better than "weight of the evidence." "Substantial," I think, is better than "weight of the evidence."

Mr. ERVIN. Oh, no. "Substantial" is any part of it. Five percent can be substantial, but it takes a little over 50 percent of the convincing force of the testimony to be the weight of the evidence.

Mr. WILLIAMS. I always thought it was a little more than that. I thought it was the bulk.

Mr. ERVIN. I remember a number of decisions which Federal judges have written in which they stated, "If I had the power to find the facts in this case, I would find the facts exactly opposite from those found by the board, but I am powerless."

So you can take 5 percent of the evidence and that may control the matter, and no power on earth can correct that finding of fact, because it is binding on the courts. That is one reason why we ought to have jury trials in all cases.

Mr. WILLIAMS. Yes, and we have our anxious moments before juries.

Mr. ERVIN. Yes, but you have 12 impartial men. The jury is charged with ascertaining the truth between two conflicting sides, and the jury is not charged with enforcing the law, except to do justice and to find the facts. Here you have this very agency which is charged with the duty of enforcing the law having the power to prefer charges and the power to act as judge, even if you adopt the amendment of the Senator from Ohio and keep him from being prosecuting attorney, too.

I want to thank the Senator. I hope I have not tried his patience. He is a very patient man.

Mr. WILLIAMS. Not at all. I believe it was helpful to the record. I know it was helpful to the Senator from New Jersey. I appreciate it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Chair, on behalf of the Vice President, appoints the Senator from Wisconsin (Mr. NELSON) as an alternate to the United Nations Conference on the Human Environment, to be held in Stockholm, Sweden, June 6–16, 1972.

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 the two leaders under the standing order, there be a period for the transaction of routine morning business, not to extend beyond 12:10 p.m., with statements therein limited to 3 minutes.

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

ORDER FOR RECESS TOMORROW, SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the hour of 12:10 p.m. tomorrow, the Senate stand in recess, subject to the call of the Chair.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD TOMORROW

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

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon return of Senators to the Chamber tomorrow following the state of the Union message by the President of the United States to a joint session of Congress, the unfinished business be laid before the Senate by the Chair.

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

Mr. BYRD of West Virginia. Mr. President, I regret that no Senator wishes to speak further today on either side of the aisle or on either side of the question. Tomorrow, following the President's state of the Union message, the Senate will resume consideration of the unfinished business, S. 2515. In the interest of expediting action on that bill, the leadership wishes to express the hope that Senators will be prepared to call up amendments tomorrow, debate them, and take action thereon; otherwise, at some reasonable point along the way, the leadership will be prepared to ask for the third reading of the bill—but only after Senators have had ample opportunity to offer amendments.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. ROTH). The clerk will call the roll.

The second assistance 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 ordered.

ORDER FOR PERIOD OF 15 MINUTES TO BE ALLOCATED FOR YEA-AND-NAY VOTES DURING REMAINDER OF SESSION

Mr. BYRD of West Virginia. Mr. President, by authorization of the distinguished majority leader, and having consulted with the distinguished minority leader and the distinguished assistant Republican leader, I make the following unanimous-consent request:

That, effective immediately and for the remainder of the second session of the 92d Congress, there be a period of 15 minutes allocated to each rollcall vote, with the warning bell to be rung midway, at the expiration of 7½ minutes.

The PRESIDING OFFICER (Mr. ROTH). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I invite attention to the fact that last year there were 423 rollcall votes. The saving of 5 minutes on each rollcall vote would amount to something like 2,115 minutes saved for the session; or, to carry that further, a saving of over 35 hours.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will convene tomorrow at 11:30 a.m. After the two leaders have been recognized, the distinguished Senator from Oregon (Mr. PACKWOOD) will be recognized for not to exceed 15 minutes, following which there will be a period for transaction of routine morning business, with statements limited therein to 3 minutes. Routine morning business will end no later than 12:10 p.m. At 10 minutes past 12 noon tomorrow, the Senate will stand in recess, subject to the call of the Chair. Senators will assemble in a body and will begin to depart this Chamber at 10 minutes past 12 noon and will proceed to the other side of the Capitol to hear the President's state of the Union message delivered before a joint session of the Senate and House of Representatives. Following the President's speech, Senators will return to the Senate Chamber, the Chair will lay before the Senate the unfinished business, S. 2515, and the consideration of that measure will be resumed.

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 OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the record what is the pending question before the Senate?

The PRESIDING OFFICER (Mr. ROTH). The pending question before the Senate is on agreeing to the committee amendment to the bill, S. 2515.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the provisions of Senate Resolution 225, as a further mark of respect to the memory of the deceased, the Honorable George W. Andrews, late a Representative from the State of Alabama, and in accordance with the previous order, that the Senate stand in adjournment until 11:30 a.m. tomorrow.

The motion was agreed to; and (at 2:09 p.m.) the Senate adjourned until tomorrow, Thursday, January 20, 1972, at 11:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, January 19, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

In God is my salvation and my glory: The rock of my strength and my refuge is in God.—Psalm 62: 7.

Eternal Father, who hast been the dwelling place of Thy people in all generations and who in Thy mercy hast brought us to the beginning of another year and another day, we thank Thee for the leading of Thy spirit in the past and pray that we may respond to Thy summons to live a truer life, to make our country a greater nation, and to build a better world where man can live together safely and securely. Only with Thee can this be done.

Teach us to bring our littleness to Thy greatness, our weakness to Thy strength, our ill will to Thy never-failing good will, and amid all the changes of this mortal life may we rest upon Thine unchanging presence. In life and in death, O Lord, abide with us and with our people now forevermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE LATE HONORABLE COURTNEY W. CAMPBELL, FORMER MEMBER OF CONGRESS FROM THE FIRST DISTRICT OF FLORIDA

(Mr. SIKES asked and was given permission to address the House for 1 minute.)

Mr. SIKES. Mr. Speaker, I rise to announce to the House and to express my sorrow and profound sense of loss on the death of Courtney Campbell. His distinguished public career included service in the Congress from 1953 to 1955.

Mr. Campbell's life was long and rich. Born in 1895, in Chillicothe, Mo., he rose to distinction through outstanding achievements in many different fields. A graduate of the University of Missouri, he returned from his service with the U.S. Army during the First World War to begin studying for a legal career. He came to Florida in the early 1920's. In 1924 he was admitted to the bar in Missouri and Florida and began his practice in Tampa. He went on to become assistant attorney general for the State, meanwhile distinguishing himself as well as a citrus grower, banker, land developer, and vice president and general manager of the Food Machinery & Chemical Corp. in Lakeland.

The citizens of Florida will always remember Courtney Campbell with gratitude, respect, and admiration. From 1942 to 1947 he served with the Florida State Road Board, and in that office one of his proudest achievements was the establishment of the system of Florida State roadside parks. The naming of the Courtney Campbell Parkway between Clearwater and Tampa in his honor was a well-earned tribute to his remarkable dedication and energy, and to his belief in the need to develop and protect Florida's scenic beauty. In 1948 and 1949 he also served as chairman of the Pinellas County Park Board.

During the Second World War Mr. Campbell's leadership and experience were called into service as a member of the Florida War Labor Relations Board, where his tact, patience, and ability made a major contribution to the war effort.

Those of us who served with Courtney Campbell in Congress remember him with great affection and respect as a kindly man who impressed the membership on both sides with his ability, his dedication, and his conscientious service. He had the true spirit of patriotism that is grounded in the love of service to one's nation and one's fellow citizens. The people of Florida will mourn his passing and feel their loss for years to come, but they can take great pride in the memory of a man whose achievements made such an outstanding contribution to their State and to the Nation.

Mrs. Sikes and I extend our deepest sympathies to his beloved wife, Henrietta, and to all the members of his family in their great loss.